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Senate

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:

Our gracious God, we praise You for the privilege of being alive. Thank You for the gift of breath. We breathe in Your peace and breathe out stress and worry. We feel our pulses beat reminding us of the gift of circulation. Our minds form the images of thought about the opportunities of this new day. We are grateful for our intellects, the education we've had in this free land, and the opportunity to think creatively today. You have created us with emotions so we could love, feel deeply for others, and rejoice in our friendship with You, our Creator and Friend. And so we accept this day as a gift and join the psalmist in exulting,

Bless the Lord, O my soul and all that is within me bless His holy Name. Bless the Lord, O my soul and forget not all of his benefits!—Psalm 103:1. 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.

APPOINTMENT 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,
Washington, DC, September 18, 2002.

To the Senate:

Under the provisions of rule I, 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.

Mr. REED thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, there will be a period of morning business that will begin at 11:30 today, with the first half hour under the control of Senator DASCHLE and the second half under the control of Senator LOTT. We are now going to be back on the Interior appropriations bill. There is not a great deal that can be done because of the procedural quagmire in which we find ourselves because cloture was not invoked.

At 12:30 we will go off Interior and go back to the homeland security bill. At that time, Senator BYRD will be recognized to offer his amendment regarding the orderly transition of the new Department. Cloture was filed under the Lieberman substitute amendment to the Homeland Security Act. Because of this, all first-degree amendments will have to be filed prior to 1 p.m. today.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 5093, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

Pending:

Byrd Amendment No. 4472, in the nature of a substitute.

Byrd Amendment No. 4480 (to Amendment No. 4472), to provide funds to repay accounts from which funds were borrowed for emergency wildfire suppression.

Craig/Domenici Amendment No. 4518 (to Amendment No. 4480), to reduce hazardous fuels on our national forests.

Dodd Amendment No. 4522 (to Amendment No. 4472), to prohibit the expenditure of funds to recognize Indian tribes and tribal nations until the date of implementation of certain administrative procedures.

Byrd/Stevens Amendment No. 4532 (to Amendment No. 4472), to provide for critical emergency supplemental appropriations.

Daschle motion to reconsider the vote whereby cloture was not invoked on Byrd Amendment No. 4480 (to Amendment No. 4472).

The ACTING PRESIDENT pro tempore. The Senator from Montana.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MILLER). Without objection, it is so ordered.

Mr. ENZI. Mr. President, I rise to support the amendment introduced by my colleagues, Senators CRAIG and DOMENICI, that I feel is critical to the survival of many forests in Wyoming and across the rest of the United States.

This amendment gives the Secretaries of Agriculture and Interior the ability to recognize emergency conditions that exist on many of our forests

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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and then allows land managers to act to protect them from the extreme threat of wildfire, specifically in those areas suffering from drought and high tree mortality resulting from insect infestation, disease, invasive plant species, or other catastrophic natural events. In other words, it allows our land management agencies to clean up their tinder boxes before they explode.

Wyoming is currently suffering its third year of drought, and our neighbor to the north, Montana, is in its fifth year. Colorado, to the south, had the driest 6 months on record from December to May. And South Dakota had the driest June on record.

More than half the United States is considered to be in drought conditions, and some estimates place this drought in the West to eventually be worse than the Dust Bowl years of the 1930s.

When these dry conditions combine with the dense fuel loads that exist in our National Forest System, we get a fire season that sets new records for intensity, for severity, and for extent. In fact, things are so hot and dry in Wyoming, we have considered outlawing corduroy pants.

Already, the 2002 fire season has burned more than 6,418,362 acres, or, in other words, 10,032 square miles, or—to put it a little differently—a 4-mile-wide strip from Washington, DC, to Los Angeles, CA. And that is packed into the Western States. This has already cost our Nation millions of dollars, and it will cost us millions more before the fire season is over.

Earlier this year, Forest Service Chief Dale Bosworth was forced to notify his forest supervisors that his agency expects to meet—and I would suggest it could even exceed—fire suppression costs spent during the historic 2000 fire season, where more than 8.4 millions acres burned, and we spent more than $1.3 billion. As was noted earlier, 2002 has already exceeded 2000's year to date acres burned. And in one recent fire—the Rodeo-Chediski fire in eastern Arizona—the Department of the Interior and the Federal Emergency Management Agency spent $8 million per day—$8 million per day—at its peak to fight it.

Forests need to be controlled locally. The local forester has the best idea of what is going on, and should have more control over the decisions. Local forester decisions is recognized in the Daschle emergency military spending amendment.

Forests have vast differences. Eastern forests are particularly different from western forests. People who have only seen eastern forests cannot rationally comment on health in a western forest. People of the East cannot understand how little moisture we get in the West.

Wyoming gets about an average of 16 inches of rain a year. I think we get that much per month out here, sometimes, in Washington. They do not understand the difference between drought in an arid area and drought in a rain forest. Because we have less moisture, the undervegetation is different and is dry. It is often pine needles and pine needles easily combust.

The West is mostly pine trees instead of hardwoods. The ground is steeply sloped. We have real mountains out in Wyoming, not the rolling hills we call mountains here in the East. So the ground is steeply sloped and it has ravines; those are small canyons. Some of them are pretty good-sized canyons.

Pines ignite easier than hardwoods because they are more porous and are dryer. The trees have needles instead of leaves. When bark beetles infect a pine tree, they kill the pine, but the needles do not drop off like leaves would drop off a normal tree. They dry out. They turn a rust color. And they stay on the tree for at least a year. They ignite even easier on the tree because the air can get to the needles. Even the bark on the trees is different. Hardwoods have a denser bark, which is harder to ignite. Pines have a bark that makes really good tinder. It peels off the tree pretty easily. Even controlled burns, prescribed burns—the burns that we set intentionally in the forests—can kill trees; and they do. Many of the prescribed burn fires that we have get out of control. These are such tinder boxes that they get out of control; they race through and kill the trees, not just the underbrush they are supposed to kill. And a lot of it has to do with the difference in trees.

If a beetle-killed pine is at the bottom of a hill, it easily fires up all the trees upslope from it. Fire burns up. The fire even creates a wind that moves the fire faster. If the tree happens to be in a sloping ravine—one of these canyons—the ravine creates a wind tunnel that amplifies the speed of the wind. The ravine provides a chimney effect that further dries the trees and warms them so they are more combustible, so they can explode.

To fight the fires, it is necessary to get the firefighters to the fire. If the fire starts to move fast, it is also necessary to be able to get the firefighters out quickly. We are eliminating roads in our forests, and we are definitely not building any new ones. Roads cannot be built during the fire, particularly in mountainous country.

Another difference with crown trees is they have a crown as opposed to the hardwood canopy of leaves. When a pine tree catches on fire, the flame burns to the point of the tree just like a candlewick. The last several feet of the tree is called the crown of the tree. When a wind is created by the burning trees, and the crown catches on fire, the crown can be separated from the tree and thrown. The wind will throw this crown a half mile to a mile, where it ignites another tree, usually at the top already, with that crown being thrown, and so on. So these fires can move extremely rapidly and set multiple fires in multiple areas.

There have been changes in western forests. Landscape comparisons, where we compare old photos with the same locations today, show us there are many more places with trees today than there were 50 and 100 years ago. And where there were trees, there used to be 50 trees to the acre—an acre is about the size of a football field—and, today, that same forest area has an average of 200 trees, and sometimes as many as 1,200 trees.

Trees are like most plants. If you plant too many, and you do not thin them, the growth of all of them will be stunted. Foresters have also found that pine beetles are more likely to attack trees that are always in shade.

Mr. President, 1,200 trees on an acre—the size of a football field—are going to be in shade just about all the time. Even 200 trees on an acre will be in shade all the time. Pine beetles like that. Trees always in shade are weaker and more susceptible to disease. And they are not as useful. They do not provide protection. And should we ever allow any to be cut down, they do not provide nearly the wood, either.

Trees are also alive. They have a lifespan. It is a tree lifespan, not a human lifespan, so it is often considerably longer, but not always. If we only keep old-growth trees, the forest will die of old age, and nothing will be left because they will all die at the same time, or approximately.

Why do we have more trees now? Because we do not have as many forest fires. Why don't we have more forest fires? Because we have more structures to protect. Why shouldn't we let fires that are distant from homes, then, burn to get rid of the excess trees?

First, it is a waste of product that could keep the price of homes down and even provide homes for people who never thought they would be a part of that American dream.

Second, an isolated fire that is allowed to burn becomes a huge wildfire and then is very difficult to put out. I will talk about that a little bit later. The bigger the fire, the harder it is to contain and the more dangerous it is to the lives of those fighting it.

Third, when ''let it burn'' really worked was only when the western population lived in tepees. They started a lot of fires. They started fires to make meadows for the wild game and to produce some plants that need more open space. But they lived in tepees. And when a fire started, they folded up their home and they moved out of range. When the fire was over, they found more beautiful land and they started again.

Today there isn't that flexibility of moving or of land availability. No one wants their home burned down. In fact, no one even wants to save their cabin if the only view they will have for the next 20 years is charred and limbless trees. Not only is the view ruined by a fire, but on the slopes we have out West, erosion starts.

A woman who owns a Montana logging firm—I love this—does the accounting and runs the skidder. That is

small business, when you do all ends of the thing. She owns a Montana logging firm. Two years ago, during those terrible fires we had in 2000, she testified at a special hearing that Senator BURNS and Senator CRAIG held in Billings, MT. One of the big points she made was that there is a difference between what she does and what Mother Nature does, and it is primarily that her firm respects the rule banning timber activities within 400 feet from a stream. A fire burns right down to the stream, and so the erosion can go clear to the stream.

She also brought in a little bit of a sample of some wood. I should have brought it this morning—except we are not supposed to have three-dimensional items on the floor—to show what some of these diseased trees are like. It is a core of wood about that big around. It has pine beetles in it, but it still would make homes.

So the big difference between having a conscientious firm do the work and Mother Nature do the work is that the firm respects the 400 feet from the stream.

I recently ran across a book called ''Fire on the Mountain.'' It is by John N. Maclean. Some of you are probably more familiar with his dad who wrote a book that became a movie called ''A River Runs Through It.'' It has some great pictures of the West in there and some great fishing pictures as well. I recommend ''A River Runs Through It.'' But for knowledge of fires, I recommend to everybody, even in cities, that they read ''Fire on the Mountain,'' which is very well done. It is from 5 years' worth of research about a fire on Storm King Mountain in Colorado. It was in the south canyon and in sight of the I–70 interstate and Canyon Creek Estates. It happened on July 3, 1994, and resulted in the death of 14 firefighters, professional firefighters, ones who had heard about the fires like the one at Mann Gulch. These are people who know how fast these things can go but still have trouble believing it.

I want to read a couple of excerpts from this book because it will give us a little bit of an idea of what it is like when one of these pine forests catches on fire:

> Bryan Scholz, the foreman, felt a pinprick of apprehension. He had seen the same thing a few weeks before, a routine brushfire on a steep slope, and that time the fire had exploded.

Further on:

> ''I told them what was going to happen,'' Scholz said. ''The folks on the other crews were looking at me like I was some sort of knucklehead. And it happened. The fire made one huge run from bottom to top in a minute, probably a good half-mile square.
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> This is a drought year, Scholz told the crew. ''Learn the lesson now, when we don't have to pay the price.''

Another example of how these things work:

> A backwash of embers swirled above the flames. If sparks from the backwash eddied down the slope and reach the opposite side of the western drainage, there would be fire on both sides of the gulch. That kind of fire creates its own wind. It turns small flames into a giant fireball, and the fireball races up the gulch faster than a man can run. That had been the story forty-five years earlier in Mann Gulch: A fireball had chased the smoke jumpers.

This is the progression of the fire. Incidentally, from Canyon Creek Estates they could see this little plume of smoke up the mountain that was just a little plume of smoke for 3 days. Nobody paid any attention, except to worry that it could turn into a big fire.

Continuing with an excerpt:

> A jet of flame shot upward and then another, seeming to spring from nowhere. Piles of dead brush, branches and tree trunks ignited. Living brush, tinder-dry from drought, took fire. Darts of flame transformed into bonfires, which merged into a single, expanding flame front. A booming wind raced up the western drainage and struck the flames, pressing the telltale smoke column nearly flat to the ground.
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> Muscular strands of scarlet flame appeared through the smoke. The fire drew back to renew itself, taking in oxygen, and the smoke covered the flames; then the fire surged forward, and again ribbons of flame came into view.
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> The rapid transition of a fire burning in debris and litter to one involving all available fuel, from the ground to the tops of trees. But this falls short of describing the majesty of the occasion.
>
> A blowup is one of nature's most powerful forces, equivalent to a mighty storm, avalanche or volcanic eruption. It can sweep away in moments everything before it, the works of nature and of humankind, and sometimes humankind itself. It is destructive, but neither good nor evil; it goes where wind and terrain take it.
>
> Blowups happen every fire season across the West when wind, fuel, dryness and terrain come together in the right combination and meet with a spark. The blowup stokes itself by creating its own wind, the hear drawing cooler air by convection. If it happens in a gulch, as is common, the sides of the gulch—in this case the western drainage—act as a chimmey and compress its energy. The flaming tempest can send a smoke column to a height of forty thousand feet or more. The blowup may die out once the gulch is burned or move on and reduce thousands of acres to ash. The blowing-up, in any case, is over in minutes.
>
> Flames also made downhill leaps as wind eddies scattered sparks toward the bottom of the V. The eddies carried aloft fistfuls of burning duff, decayed leaves, that is, twigs and other matter.
>
> . . . the gorge of the Colorado River, a natural wind funnel, in a phenomenon known as a venturi effect, named for the nineteenth-century physicist G. B. Venturi, who discovered that a throatlike, constricted tube actually will increase the velocity of fluids—

That is what these ravines do and what the river adds to.

> The transition from a ''normal'' fire to a blowup took seconds.

I have to tell you, when the fire was out, the trouble wasn't over. The fire happened in July. In September—September 1—a motorist was driving through heavy rain on I–70. That is the interstate visible from where the fire was, the fire that killed 14 people who were not able to get out of the way of how fast that fire raced through this tinder dry fuel.

On September 1, a motorist, driving through heavy rain on I–70 past the foot of Storm King, heard ''a whoosh like a real strong wind going through the mountains.'' Hundreds of tons of mud, blackened trees, and scorched brush, loosened as a result of the fire, slid down gullies, spilled across I–70, and poured into the Colorado River. The mud engulfed 30 vehicles. Traffic on I–70 was backed up for 4 miles.

> Several people and vehicles were swept into the river. Two people were injured, but [fortunately] no one was killed.

That is the aftermath effect of a forest fire. That is another reason we are trying to stop forest fires, particularly in these mountainous areas. They destroy the mountain.

Now, so far we have been lucky that some of our most dangerous areas haven't caught fire. We have not been lucky in deaths caused by the forest fires. I think we are up to 22 deaths so far caused by the forest fires this year alone. Not all of those could have been avoided, but many could have been avoided by having healthy forests.

We really need a discussion in this country about what a healthy forest is. We have to move away from thinking one side wants every tree cut down and the other side wants no trees cut down. We have to get to where we are thinking about the health of the forests and the beauty we want our kids to be able to see in several years.

One of the areas I am particularly concerned about is just east of Cody, WY, on Shoshone National Forest. It lies right next to Yellowstone National Park. This is an area considered critical habitat for wolves, grizzlies, whooping cranes, elk, bison, mule deer, and several other animals that spend their time living in Yellowstone National Park when the snows get deep in Wyoming. The area is also home to a very severe pine beetle infestation that threatens to ignite and cause extreme damage to the park, the forest, and the surrounding communities.

This summer, the National Forest Foundation—these are individuals who believe in putting their money where their mouth is. They put money into a foundation and, occasionally, they get matching money. They do pilot projects that allow experiments to be done in forests to make them as healthy as possible. I want to challenge any environmental group out there to share with me their numbers on how much of the money they collect goes to actually solving the problem they are talking about—not going into court actions to stop other people from doing anything, but actually working on the problem they are talking about. I highly congratulate the National Forest Foundation for putting their money where their mouth is. I got to see some of these projects which have created habitat, primarily for elk, and where most importantly they were able to drive down the fire danger, making some beautiful areas in Wyoming, getting rid of these rust-colored abominations that we have.

A year ago there was a fire in Yellowstone Park. I went to that fire. I wanted to see how the new fire plan was working. I have to tell you that every firefighter I talked to was thankful that we have a policy now of stopping the burn as fast as we can. We used to have a policy of let it burn, and then when it started getting in the area of structures, we started to worry about it. Often the flames were maybe as high as 150 feet, and we could not do anything about it. So they really like this new policy. It is much safer for them to go in as soon as the fire starts and put it out.

On the Storm King fire, as I mentioned, they noticed flame from these Canyon Creek Estates on July 3, and it was 3 days later before anybody went to take care of the fire. It was just a small plume of smoke quite a ways from homes. In a matter of a few minutes, it turned and became a danger to those homes. People living at the bottom of one of these areas are not very pleased to have a fire going alongside their homes, even if it is quite distant.

They showed me some of their maps and, from where we were, we could actually see what they were talking about. They were concentrating 80 percent of their fire suppression efforts on one small part of Yellowstone Park, right at the edge of the park. The reason they were doing that was there was this big pine beetle infestation next to that. If the fire were to have jumped from Yellowstone into the infestation, it would have taken out the lodges and homes and the Boy Scout camp between there and the reservoir near Cody. They had meetings with people in the lodges and in the homes and made sure they had an evacuation plan.

If you are a tourist in a lodge, and the owner of the lodge is explaining the forest fire evacuation plan to you, it doesn't make a very relaxing vacation. When you go home, you don't say: There is this great place outside of Yellowstone I would like you to visit, but you have to watch out for forest fire evacuations.

At any rate, the firefighters there wanted to know what I was going to do about removing those pine beetle trees because they are a huge danger to the forest. Nobody wants to drive through charred trees to get to Yellowstone Park. There are trees that need to be taken out. They run through some ravines. What I talked about could actually happen with the area just outside of Yellowstone Park. Fortunately, we have the National Forest Foundation making some headway at getting a little bit of corrective work there. But it is nothing compared to what we need.

Another example can be found in the Black Hills National Forest, where forest managers have been extremely lucky not to have to deal with fires in the Beaver Park roadless area or the Norbeck Wildlife Preserve. These areas are suffering from severe storm-related damage and a mountain pine beetle infestation that has left acres of dead and dying trees. When trees are filled with dense and now dry underbrush, it creates a terminal condition for the entire ecosystem should something happen and a fire start in either of these areas. As I said earlier, we have been lucky these areas have not already caught fire.

One fire did get close. The Deadwood fire came within a mile and a half of these areas. It also burned down some structures. I have to give you a report on that because, most recently, there has been a huge mud slide there. Mother Nature didn't observe some of our federal rules limiting erosion.

Fortunately, the Senator from South Dakota, Mr. DASCHLE, was able to include language in the emergency supplemental military bill that will allow the Black Hills National Forest to address this situation. If we are lucky, it will be done in a timely manner and before it is too late. I only hope we can provide that same kind of protection for the areas in Wyoming and the other Western States.

Back when I was a Boy Scout, one of the requirements I had to complete to earn the rank of first class on my way to earning the Eagle Scout Award was to start a campfire using not more than two matches. I became very good at starting campfires and was well known for winning water-boiling contests at scout camporees. There are a number of tricks people develop in starting campfires. I had my own system that helped me to win. But no matter who you are, or what your trick may be, there are three basic elements to every fire—oxygen, fuel, and heat.

Oxygen comes from the air and is readily available. Fuel is found in the wood, particularly dry wood that burns easily when enough heat is applied. Heat comes from a spark, match, possibly friction—not corduroy pants, however. We cannot do anything about oxygen. The fuel—we can do and should do something about fuel. Usually, we cannot do anything about heat unless it is manmade.

The best way to apply enough heat to start a successful campfire is to properly organize the wood in a way that allows flames to climb from the bottom of the firepit where you put the smaller, quick-burning sticks and tinder—to the larger, longer burning logs in much the same way as someone would climb a ladder one rung at a time. Some of you have fireplaces. That is the way you do it. You put in the small tinder and then bigger and then the logs, which you like to see burn—you don't if it is a forest fire.

To start a successful fire, I began by carefully putting the wood shavings at the bottom of the fire—this would be my light tinder, or the first rung of the fire ladder. I then built a small teepee of sticks over my tinder—about the same as a ravine—and I added larger sticks, which is what catches fire when everything else happens. The larger pieces of wood go on the top. They draw the heat from the flames of the intermediate sticks below them. If you did it correctly, you would start your fire and boil a can of water before anybody else.

What does this have to do with our national forests? If you go out on the ground now and look at the density of our national forests, they are laid out just like the campfires I was trained to build when I was a Boy Scout. At the bottom of every forest lies a collection of small dried out brush, leaves, and fallen bark. Over this pile of tinder is the next rung, which is made up of small to intermediate trees. These intermediate trees are then crowded in between the larger and older trees that make up the top rung, or crown, of the forest fuels ladder.

This problem wasn't always as bad as it is now. There was a time when Mother Nature and the Native Americans took care of thinning the forests by regularly starting wildfires. Because the fuel loads weren't allowed to grow as dense as they are today, the fuel ladder didn't reach all the way to the big trees. Fire would burn up the tinder and thin out the intermediate and dead and dying trees. This promoted biodiversity, kept the intensity of the forests down, and in times of drought the competition for limited water resources was dramatically less than it is today.

We now have forests that historically had 40 or 50 tree stems per acre that are now over 200 stems per acre. That is a 300-percent increase.

When a fire starts in forests this dense, it quickly climbs the fuel ladders and races out of control. These crown fires are all but impossible to stop. The heat generated from all rungs burning at once sterilizes the soil and leaves nothing but desolation in its wake. This is only made worse with the added factor of drought.

By adding to the mix stands of dead trees that are as dry and volatile as the tinder on the forest floor, one can imagine the threat this kind of fire can have on the forests and their surrounding communities, and there are more and more communities, more and more homes, more and more structures.

It is a much better conservation practice, therefore, to step in and duplicate the effect historic, healthy fires had on our forests by using what we call mechanical thinning. This is a practice where our land management agencies hire experienced timber companies to remove the dense underbrush and carry out the smaller and intermediate trees, thereby leaving a forest that is healthy, more biodiverse, more fire resilient and that has a better mix of older and younger trees so the whole forest does not die off at once.

The alternative is to allow Mother Nature to step in and conduct one of her catastrophic clearcuts, and when Mother Nature does a clearcut, as I already mentioned, she does not care about riparian zones or raptor nesting sites.

Another factor that must also be considered, now that we are fighting the war on terror, is that these catastrophic clearcuts we are suffering in the West also pose a serious threat to our national security. It requires an extreme amount of resources and time to fight these fires and often includes military support. The Air National Guard facilities in Wyoming have been detailed as a support base for dispatching air tankers, and a lot of our Nation's airspace is now off limits to anyone but firefighting aircraft.

We also have a report that the fires pose a serious threat to our Nation's communications facilities and to the power grid. There is no way to build an extensive communication and power system in the West without putting some of it on Federal public lands, including forests. The Federal Government is the largest landowner in the West, and we have rights of way crossing all over it. When we have fires such as we have this year, they are, at one time or another, going to threaten our Nation's utilities.

We cannot afford in this day and age to surrender our Nation's greatest assets in fighting the war on terror; namely, its technological advantage created by our extensive energy and communications networks.

In closing, I urge my colleagues to join me in supporting this amendment and in giving our Federal land managers the tools they need to decrease the serious threat of fire on our forests caused by the dangerous combination of drought and infestation. It is a very limited bill. I would even hesitate to call it a pilot project. But it is essential to get started and to get started now. If we can establish some good examples, we can show there can be healthy, beautiful forests, the way we envisioned them and dreamed of our kids and our grandkids and our great-grandkids being able to see them. We have to have better stewardship of our forests than what we are doing right now, and it does include cutting some trees.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. 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. CRAIG. Mr. President, for the last good number of minutes, I have been listening to the Senator from Wyoming talk about forest fires in the making. I must tell you, it was not only fascinating but an issue he and I, as westerners who live in forested States, have grown to develop some knowledge about over the years.

I liken Senator ENZI's speech to Forest Fire 101. It was appropriate, and it well defines the great problems we face, not just in the West today, although conifer trees—or pine trees, fir trees, all that the Senator was speaking about—have a different characteristic in fire than do the broadleafs.

What is fascinating to me now is that in January, February, and March, which oftentimes are the dryer seasons on the Eastern seaboard, we are beginning to see more and more fires in our broadleaf forests because of the fuel loading that is occurring. It starts in the brush and in the leaf flora and goes to trees that are not yet leafed out and green.

The point I make, and why we are talking about this as a national fire policy and why it is important for the Senate to stop, as we have, to focus on the need to reshape public policy in this critical area, is it is now of national importance and a magnitude we have never seen before.

We are not used to allocating $2 billion a year of taxpayers' resources to fight fires. That is approximately what we are going to be doing this year. It is what we did last year and the year before. The American public ought to be scratching their heads a bit and asking a fundamental question of their policymakers: Is that justifiable? Can we, as a country, spend $2 billion a year to fight fire in our national forests? Why are we doing it?

As I have mentioned several times, it is not any longer just to put out fires that are burning trees and watershed and wildlife habitat. It is to protect an ever-growing number of homes that are built near or in these forested areas because that has become an extremely popular place to live for the average American over the course of the last number of years.

In 1998, we had some very severe fires in Idaho, and in an area with which I am very familiar—which is where I grew up—in the McCall-Cascade area of the national forest—the forest supervisor of the Payette at that time told me—and I think we lost 200,000 to 250,000 acres in two or three fires that joined together that year—that the greatest concern he had and the most resources he used was to keep fire away from homes; that while the fires had to be left to burn elsewhere because they simply did not have the manpower to put them out, they focused on protecting homes.

We now call that the urban wildland interface. Over the course of the last several years, we have tried to shape fire policy around that and direct resources toward the thinning and cleaning of forests in the immediate areas around these lovely homes that are being built out in the wooded areas.

Is that a national responsibility, is that a Federal responsibility, or is that the responsibility of the homeowner? The homeowner builds his or her home next to a national forest anticipating that forest is cared for and is not going to erupt in fire and, therefore, will not place their home at risk. So this is a public obligation, in part, to sustain a healthy forest, not just for wildlife habitat and watershed but to assure that fires will not sweep across private land and destroy private property. There is, at least arguably, a liability factor there if the forests are not properly maintained.

Over time, we have said there is a liability factor if the poor management of product on one side of a property line causes damage to property on the other side of a property line. Out West, we say if you harbor noxious weeds on one side of a property line and they move over to your neighbor's property, you are liable. County law and State law says so.

That is why we have dedicated phenomenal resources over the last number of years, as this fire situation has grown in our forested areas, to protecting homes. Even as we try to protect the home, as the Senator from Wyoming has so clearly spelled out, in this fiscal year, starting in mid-June, we have lost now over 2,100 homes across this country, mostly along the Rocky Mountain front from the White Mountain forests of Arizona up through the Rocky Mountain forests of Colorado, homes in California, a few in Oregon, an entire town almost wiped out in Arizona, and an entire community threatened in Oregon this year with severe fire.

It is appropriate, while the Senate would wish to rush on to other issues, that we deal with this issue in some form. It is a national crisis. Nowhere can we say that the loss of 6.5 million acres of our forested lands is anything but a crisis. As I have said, if this had been Hurricane Andrew—and I am not sure Andrew did much more damage than that years ago in Florida—we would rush down there with all possible Federal resources to help the community, to turn the power on, to rebuild the homes, to clean up the debris.

Here we step back and say—or at least some do—this is all but an act of nature in a normal sense. It is not an act of nature to see abnormal fires of the kind the Senator from Wyoming has spoken so clearly about, with heat intensities in a multiple of hundreds of degrees hotter than a normal fire, burning everything in its path, leaving nothing behind. That is not a normal forest fire. That is an abnormal forest fire that is a creation of public policy that has disallowed the thinning and cleaning by mankind that was once done by fire, before we eliminated fire from the ecosystem about 90 to 100 years ago.

We became extremely active in fire management in a post-World War II era when a bunch of young men came home who had learned how to jump out of airplanes. They could put a shovel and a pulaski on their back and file in a Ford trimotor out across the forests of the West and jump off to a lightning strike and throw a few shovels of dirt on it and put it out and they became known as smoke jumpers. That was the beginning of a scenario on our western

public land forests to put fire out. We got better and better at it over the years, to the point where we have nearly eliminated the fires, and in eliminating fire, which was the natural cleanser of our forests at that time, we did not replace it with a fire-like, man-created presence.

So the fuels begin to build and the small trees begin to grow and the brush begins to multiply to the point we have added fuels to the acres of such magnitude that scientists tell us that they are fuels equivalent in Btu's to tens of thousands of gallons of gasoline per acre in explosive character or ignitable capability. That is the reality of many of these public land forests today.

In the White Forests of Arizona, where 100 years ago stood 25 trees per acre in a relatively pastoral setting, with grass growing beneath, wildlife ambling through, large trees scattered across the landscape, in that very forest this June, instead of 25 or 30 trees per acre, there were 700 trees per acre—not big trees, little ones, 6 to 8 inches through. A forester would call those weed trees, scrub trees, of no value, except to do exactly what the Senator from Wyoming said—create that ignition of fire that starts from the bottom and sweeps upward to the crown of the tree along the natural coning shape of a conifer, a fur, a spruce, or a pine.

It is the characteristic of fire that we do not want to speak to today. We just want to ignore it because some groups have said it is natural, leave it alone, turn your back on it, walk away. They want to because they do not want us in there. It has been in the name of the environment. You cannot call this anything but now an environmental disaster, a total wipeout of the watershed. You heard the Senator from Colorado last night talk about it.

Now, in Durango, CO, where the land burned but 2½ months ago, the rains have now come and the land is sliding down the mountainside and blocking the streams and the roads and filling the reservoirs full of muddy ash and water. That is not natural. Had that watershed in the Durango area that feeds Denver been allowed to be thinned, cleaned, alive and vibrant, fire would not have burned it. The rains would have come. The organic soils would have consumed the water and slowly allowed them to trickle down that watershed into the lakes and reservoirs that feed the Greater Denver area and its water systems.

Absent that is nothing but a tragedy. To say that is only a natural occurrence and that somehow we have to accept it is wrong. To the environmentalists who make that argument, I say, shame on you. You ought to become a copartner in working with us to determine how we can effectively thin and clean and restore the health and vibrancy and environmental integrity of those watersheds so they can support wildlife habitat and become the ever-replenishing source of water for the urban areas of the West or anywhere else in our country.

Our forests are important to our ecosystem. They are great sequesters of carbon that flows out of the air as a result of the human presence and great storehouses of water that then feed out over the course of a year, to be used by all of us for life-sustaining purposes, not to slide down mountains in the form of mud and ash and broken, burned trees, of a kind that you will now see all over the West this winter in those 6.5 million acres that have already burned. It is a disaster that has happened.

To not stand here on the floor and shout out about it would be a failure of anyone who represents those areas. It is not natural. It is a creation or a result of public policy that has allowed that.

I am suggesting we not look backwards and start pointing fingers and blame, but we look forward. We know the conditions today. We know the problem. We also know a solution. And every forest scientist will line up and tell you exactly what to do. Most all of them will agree. It is not clearcutting. It is not logging. It is not all of the kinds of things that some accuse us of wanting to do. It is a systematic cleaning and thinning and restoring of health, and replacing fire with man's presence in a fire-like way. By that, I mean the thinning, cleaning process.

No, I am going to be an advocate of green sales, and I will be an advocate of a logging program as a part of a multiple use base of our national forests, but that is a different argument and a separate issue from the issue of forest health. When we have hundreds of millions of acres of forests across our Nation today, and we know there are over 94 million acres that are in some form of health problems, and there are nearly 30 million that are at crisis today by big kill of the kind that the Senator from Wyoming spoke of, by dead and dying trees, by magnitudes of large fuel loading that creates the kindling of the fires that swept across and are continuing to burn in the West today, that is where we ought to focus. That is where we are focusing with the Craig-Domenici amendment. It is why we have invited all of our colleagues to become involved and help us work out these problems, instead of simply saying no, because some special interest group said, tell them no.

This is not an answer today in the West. No means we will continue to burn. And every year we will burn 5 or 6 or 7 million acres—every year for the next 10 years, 20 years, 30 years. That is a magnitude of environmental disaster of the kind this country has never seen. It is one of which I do not want to be a part; it is one the Senator from Wyoming does not want to be a part. It is why we are working so hard to strike a compromise, to make a small step forward, to change the thinking just a little bit. It is why the Craig-Domenici amendment selects urban wildlife interface, municipal watersheds, and an unlimited number of those 30 million acres of the critical dead and dying—less than 10 million acres in total.

We have said, let us make this small step forward and watch the U.S. Forest Service—bring the cameras in—prove we can thin and we can clean and we can reestablish the health of these forests. And it is not by someone also's definition of logging. That it is not evil and clandestine and somehow a subterfuge to get loggers back into the woods. There is nothing wrong with loggers in the woods, nothing wrong at all. But this is not that issue. This is a forest health issue. If we do the right logging in the right areas and we sustain ourselves, we can always have a healthy forest. But today we ignore it.

The last 3 years I fought the effort of the former President, President Clinton, to lock up 94 million acres of roadless lands. I guess it was about 1994. We succeeded in stopping him. But he wanted to lock it up, again at the advice of some interest groups, and then ask America to simply turn their back on it and let it sit.

That is where all these fires are starting today. Many of the fires that started in the roadless class 3 lands today are the ones that swept out of those, into class 2 and class 1 high-quality forest lands, and wiped everything out in the process. Because fires of the kind the Senator from Wyoming spoke about know no bounds. The Senator said it: All they know is heat, fuel, oxygen. And in a drought-like environment where humidity is dramatically low, kindling points drop dramatically and forests literally do explode.

Those who have seen the great forest fires of the West, have seen the devastation, have seen the plumes of smoke going 12,000, 14,000, 20,000 feet into the air and mushrooming like an atomic bomb, will never forget what they saw.

When the White Forests were burning this year, I was flying from Dallas to Denver. Somewhere out over northwestern New Mexico we began to hit the cloud plume and the smoke rolling off the fires in Arizona. The pilot came on the intercom—we were at 35,000 feet, and the airplane was in smoke—and he said to the passengers on the plane: As a pilot, I have never experienced this before, but we are in the smoke from the forest fires of Arizona.

We were in smoke from that time, as that plane flew out of New Mexico, across Arizona, and into Colorado, until we landed in Denver and then the winds had shifted; Denver had cleared, but from Denver south, it was all full of smoke.

But to have an airline pilot say he had never experienced that, to me, is a simple description of the magnitude of these fires, the intensity of them, the phenomenal fuel consumption, the tremendous release of carbon into the air, that smoke cloud that literally spread across the United States at high altitude.

That is the crisis to which we speak. Some would like to rush to judgment,

ignore these problems, walk away from them. Shame on us if we do. Shame on us if we do not work to make one small step toward correcting these problems. If we then, by that small step, can prove to the American public that we have done the right thing—and I think we will be able to—then will they allow us to make another step? I hope that is the case. That is what we are going to try to get accomplished, and I think we can get that accomplished today. I hope we can.

What I would appreciate, if we are wrong, is to have the opposition come speak on the floor and tell us why we are wrong. I have heard no one come to the floor this year and try to justify the fires that have burned across America's public forests this year. In fact, they are cowering in the smoke, wishing not to speak out. They will vote for the special interests that ask them to vote no, but they will not come out and openly express that what happened in Arizona and Colorado and California this year, and parts of Oregon, is all but a natural process and 2,100 homes and 22 or 25 lives and $2 billion is an acceptable reality to America's forest environment.

I do not believe that is the case. So, if you can't justify the current policy and the current policy is creating that kind of damage, then why not change it just a little bit, enough to prove to the American people, and to the critics, that what we are advocating is the right and proper direction? Give us the time to do the programs, turn the television cameras on, come out and look at it, and tell America what we are doing. If it is wrong, we will change it. But I think they will be very surprised, finding out we can thin and we can clean and we can improve the watersheds and you can save the forests and you can defuel them and therefore fireproof them—at least from the kinds of fires the Senator from Wyoming and I have been discussing—and allow these forests to return, in some instances, to the natural fires of 100 years ago that burned lightly and ambled across the land, thinning and cleaning but not destroying and not burning large trees or the pastoral landscape that Europeans first experienced when they landed on these soils and began to trek across this great continent and through these marvelous forests from east to west.

It is a legacy. The legacy of today is a legacy of embarrassment, in my opinion. It is a legacy of misguided public policy that has brought us to a point of decision. We ought not take it lightly. We certainly ought to deal with it now rather than later.

I yield.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Wyoming is recognized.

Mr. ENZI. Madam President, I thank the Senator from Idaho for his kind comments but more so for his leadership he is providing on this issue. The speech he gave now and the several speeches he has given, I know they have been extemporaneous and from the heart and contain a lot of information that people across this country need to have.

I congratulate you for your leadership. I also congratulate Senator BURNS, Senator DOMENICI, and Senator ALLARD from Colorado for their leadership on this.

Yes, it is interesting there are not some speeches against what we are doing. We had an interesting vote on the floor yesterday. We had a cloture vote. We had a vote to stop discussion, not on this amendment but on the one that is just above it in the food chain. The purpose of that cloture vote was to keep us from getting a vote on having healthy forests in this country.

I don't want people to think we are filibustering. We are trying to get a vote. We want a vote. But there are all kinds of tactics being used to stop us from getting a vote on whether we ought to have healthy forests, because everybody in this body knows how everybody in this body ought to vote on healthy forests. They ought to vote for them.

We need a lot more dialog on what a healthy forest is. I admit that. I want to point out the amendment we are talking about is not even of significance to be a pilot project. It has virtually wiped out the chance to really do the job in our forests. But it does give us a chance to start showing what could be done in the forests. It is a shame anybody thinks that is worth stopping—just a small, pilot project.

I did have a couple of other thoughts as the Senator from Idaho was speaking. We have covered quite a bit about what a waste fire is. It brings to mind a little controversy that was happening at the time I came to the Senate, and that was a discussion about timbering. There was a discussion about how we were doing the timbering in this country below cost.

I am the only accountant in the Senate. I love looking at numbers. So when somebody starts talking about below-cost timber sales, that is in my category, that is something in which I am interested. So I took a look, to see how much it was costing us, as American taxpayers, to have timbering in the national forests. I saw some of the greatest gymnastics of accounting I have ever seen. We are taking corporations apart right now for their bad accounting—and they should be, if they are doing it wrong. But, by golly, somebody ought to take a look at the Government accounting while they are at it. They ought to take a look at timbering and the terrible accounting that was done on that.

You know, you really should not be able to take all of the costs of a national forest, which include a whole variety of different things and are supposed to include a whole variety of different activities, some of which are recreation. Did you know that recreation has costs? We provide a lot of services to people who are recreating in the national forests, and we should. But we should not take those costs of recreating and charge them to timbering, to show that it is a bad deal.

Let me tell you what kind of a bad deal we have going right now. Right now, we are talking about hiring a whole bunch of Federal employees to go in and clean up forests. There is a whole bunch of people out there who are already experienced at doing this. Yes, if you go back a few years in the methods they use, you can question some of those methods. We need to make sure those methods never happen again. But there is a right way to do it, and there are people out there who know the right way to do it, and do it the right way. Instead of having to pay for the whole job and throwing away whatever is taken out of the forests, they would pay for that right to cut out some of this dead timber.

Some of this has already happened, over by Rapid City. The forests come right up over against the city, and they were worried about it burning the city up, so they hired some people to come in and do some logging. They hired another crew to come in and clean out the underbrush. The ones who did the logging were from a little town in Wyoming. They were from Sheridan, WY. Do you know what they had to say to me when they found out that a second crew came in to clean out the underbrush after they did the logging? They said: We could have done both jobs for almost the same cost because the setting up costs money.

We are doing some really poor stewardship things in this country by not having a great dialog and getting the people involved who know how to do the things, because they have done them. There are jobs out there that could be done with credits for the lumber that might be usable. I have to tell you a little bit about the lumber that might be usable.

It used to be that you had to have a pretty big tree to get anything usable for housing. There is an innovative company in Sheridan, WY, I learned about after the problem over by Rapid City. They are able to take the core of small trees and laminate them together to make beams for houses, 2 by 4's for houses, tabletops. They have some phenomenal ingenuity, and they have some products that will be released shortly—again, with bits and pieces of very small trees. These are small businesses.

I am really proud of small businesses in this country because I know that is where the ingenuity of the Nation comes from. If a company gets a really good idea, they may be bought out by a bigger company. The start of these ideas usually comes from one person having a great idea, being willing to put their money where their mouth is, take on all the risks for it, and prove that the product will work. We have several of those very small operations in Wyoming. You can take almost anything you can call wood and put it to

use in something that will drive down housing costs and make some beautiful features. We need to be doing that. As I mentioned, they are paid to cut the trees, but they are paid to clean up the forests. So if you want to save a little bit of money, put people to work, and make sure we don't have the terrible waste because of fires, that is how we can do it.

I hope everyone will support this amendment. It is not the amendment I would offer. It is far too small. It doesn't begin to take care of the problem. But I ask that you support the amendment and consider all of these things we have been saying. At least give some counterarguments, if there are any counterarguments. When we do these cloture amendments which are designed to eliminate this amendment without a vote, I hope everybody will continue to oppose that too.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Madam President, I ask unanimous consent to be allowed to speak as if in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

HOMELAND SECURITY

Mr. MILLER. Madam President, very shortly we will be back on the subject of homeland security. As this debate on homeland security goes on, I hope no one will forget that it is being held in the shadows of the fallen towers of the World Trade Center.

The smoldering fires may have gone out, the acrid smell may no longer burn our nostrils, the strains of ''Amazing Grace'' from the bagpipes may no longer fill the air, but, make no mistake about it, the need to protect this country and prevent this from ever happening again is just as urgent.

How does the Senate meet this, one of the greatest challenges of our time? I will tell you.

We talk and talk and talk. Then we pause to go out on the steps of the Capitol to sing ''God Bless America'' with our best profile to the camera. Then we come back inside and show our worst profile to the country.

I have not seen many cloture resolutions I did not like. I can't remember the last time I voted against one because I am almost always in favor of speeding things up around here.

Too often, the Senate reminds me of Will Shakespeare's words:

> Tomorrow and tomorrow and tomorrow
> Creeps in this petty pace from day to day.

But the cloture vote that is before us now is one that I cannot support. We have wasted so many precious days, days that we could ill afford to waste, days that gave our enemies more time to plot their next attack. And now, all of a sudden, we want to invoke cloture to stop the debate in its tracks.

Well, I will vote ''no.'' Because, make no mistake about it, invoking cloture will prevent this Senate from having a choice, a choice between a bill the President will sign and one that he will veto.

We must give the President the flexibility to respond to terrorism on a moment's notice. He has to be able to shift resources, including personnel, at the blink of an eye.

So why do we hold so dear a personnel system that was created in 1883 and is as outdated as an ox-cart on an expressway?

I will tell you why. Because by keeping the status quo, there are votes to be had and soft money to be pocketed. That is the dirty little secret.

When the civil service was established well over a century ago, it had a worthy goal—to create a professional work force that was free of political cronyism.

Back then, it was valid. But too often in government we pass laws to fix the problems of the moment and then we keep those laws on the books for years and years without ever following up to see if they are still needed.

The truth of the matter is that a solution from the 19th century is posing a problem in the 21st, especially when this country is threatened in such a different and sinister way.

Presently, we are operating under a system of governmental gout and personnel paralysis.

Despite its name, our civil service system has nothing to do with civility. It offers little reward for good workers. It provides lots of cover for bad workers.

Hiring a new federal employee can take 5 months—5 months. Firing a bad worker takes more than a year—if it is even allowable—because of the mountains of paper work, hearings, and appeals.

A Federal worker caught drunk on the job can't be fired for 30 days, and then he has the right to insist on endless appeals.

Productivity should be the name of the game. And we lose productivity when bad folks hold onto jobs forever or when jobs go unfilled for months.

It is no wonder there is resentment among out many good employees. I would be resentful, too, if I watched bad workers kept on the payroll and given the same pay raises by managers who are intimidated by the complicated process of firing or even disciplining them.

A few years ago, there was a best selling book entitled, ''The Death of Common Sense,'' written by a man named Phillip Howard.

I liked it so well and thought it was so on target that I gave all my agency heads a copy and had them read it. Then, I had Mr. Howard come to Georgia and speak to all of them.

Its thesis was that ''universal requirements that leave no room for judgment are almost never fair, even when the sole point is to assure fairness,'' to use his very words. It is still very timely and even more pertinent to the Federal Government than to State government.

President Bush has called his efforts to bring security to our Nation and justice to our enemies a ''relentless march.''

This Senator is ready to fall into formation with our President's ''relentless march.''

Because when it comes to protecting the jobs of Federal workers or protecting the lives of American citizens, I know where I stand.

This is a country with 8,500 miles of border; a country that 500 million people enter each year; a country where 16 million containers a year enter our ports from foreign countries, and where more than 1.2 million international flights occur.

The daunting task of securing this country is almost incomprehensible. Let's not make it more difficult by tying this President's hands and the hands of every President who comes after him.

Why are some automatically assuming that the folks who will run this Department will abuse their positions and mistreat Federal employees?

Instead of assuming the worst, why aren't we seeking to create the strongest, most efficient Department we can create?

And don't forget this: Many previous Presidents—beginning with President John F. Kennedy—have found it necessary to exempt agencies from unionization and collective bargaining systems when it was in the interest of national security.

Dozens of Federal agencies are currently not covered by the Federal Labor Management Relations Act: the CIA, the FBI, the Secret Service, the air marshals within the FAA, and the list goes on. And yet the tens of thousands of employees in these agencies have been treated fairly and well.

Today, there are some 800 pages in the Federal Code that already generously guarantee rights, benefits and protections for employees—800 pages worth.

Now, I respect and thank the many good, hard-working Federal employees. And I have tried to imagine myself in these workers' places at this particular time in history.

I am an old believer in that line by that wonderful Georgia songwriter, Joe South, ''Before you abuse, criticize or accuse, walk a mile in my shoes.''

But perhaps it is because I have worked for $3 a day and was glad to have a job that I find their union bosses' refusal to budge for the greater good of this country so surprising.

Union politics may be important, but it should never take the place of national security. We are at a most serious time in the history of this land. Our country, our people are in mortal danger.

And as I look at what is transpiring around me, this old history teacher cannot help but think about what the timid and indecisive Neville Chamberlain was told by a Member of Parliament as he was being dismissed as

the Prime Minister of Great Britain. ''You have sat too long for the good that you have done,'' the Member told him. ''You have sat too long for the good that you have done.''

I am sorry to say it, but on this question of homeland security, I believe that most Americans think that this Senate has sat too long for the good that we have done.

And as Chamberlain slunk away that historic day, the crowd shouted after him, ''Go, go, go.''

Then, you remember, Winston Churchill, who had been a voice in the wilderness warning for years about the threat of Hitler, became Prime Minister.

And in that famous speech to Parliament in May of 1940, he uttered those famous words, ''I have nothing to offer but blood, tears, toil, and sweat.''

Madam President, what does this Senate have to offer? What do we have to offer in this time of crisis? How about a little bipartisanship, perhaps? That is not too much to ask, is it, compared to blood, tears, toil, and sweat?

Because, as Churchill continued in that speech, ''We have before us an ordeal of the most grievous kind.'' We certainly have that today, an ordeal of the most grievous kind.

Churchill went on:

> We have before us many long months of struggle and of suffering. You ask what is our policy?
>
> I will say: It is to wage war, by sea, land and air with all our might and with all the strength that God can give us; to wage war against a monstrous tyranny, never surpassed in the dark, lamentable catalogue of human crime. That is our policy.
>
> You ask what is our aim? I can answer in one word—victory—victory at all costs, victory in spite of all terror, however long and hard the road may be; for without victory there is no survival. Without victory, there is no survival.

And then Churchill said this:

> At this time I feel entitled to claim the aid of all, and I say ''Come, then let us go forward together with our united strength.''

Then, Clement Attlee, the leader of the opposing Labor Party, joined with Churchill as his Deputy Prime Minister and they worked together during the course of the war.

Why can't we have something like that around here now? Is that too much to ask when we are in a death struggle for the soul of mankind?

So, Madam President, I have made my choice. When it comes to choosing between an aged, arthritic civil service system filled with stumbling blocks and booby traps, or an agile agency that is nimble and responsive on the other, this American stands with his President.

I have made my choice. When it comes to choosing between real homeland security that protects somebody's life or homebound insecurity that protects somebody's job, this American stands with his President.

Deep down, I know that I am not the only one on my side of the aisle who feels this way. And I hope that I will not be the only one on my side of the aisle who votes with the President.

Seldom has there been—on any issue—a greater need for united, bipartisan support to make that ''relentless march'' to bring security to our Nation and justice to our enemies.

Thank you, Madam President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I have been in Congress for 24 years, and I have never heard a better speech. I have never heard a clearer statement of principle. I congratulate the Senator from Georgia.

Tomorrow, the Senator from Georgia and I will announce the completion of an effort we have had underway for several weeks. We will try to look at concerns about the President's bill that have been raised in the House, we will try to look at concerns that have been raised in the Senate, we will try to look at changes that were made in the House bill and the Senate bill, and even try to come up with a bill that addresses those concerns, but does it in such a way as to protect the President's ability to fight and to win this war on terrorism.

Also, Madam President, let me make it clear: When 9/11 happened and the President decided he wanted to create a new independent agency by taking parts of the Government that were not working together, that were not communicating effectively, and putting them into a coherent whole, I would have thought 100 Members of the Senate would have supported that effort.

I was wrong. If anybody had told me that in light of 9/11, the death of thousands of our people and the imminent danger we face every day that we would have an effort in the Senate to actually take power away from the President. This is power that President Carter had, power that President Reagan had, power that President Bush had, power that President Clinton had, and power that President Bush has today, I wouldn't have believed it.

Who would believe that a bill that could not have been passed before 9/11, a bill that literally strips away the power of the President to designate a national emergency and in the process waive work rules that impede efficiency and jeopardize lives? Who would have believed, after thousands of our citizens were dead, after millions of our citizens are in danger, that the Senate would come forward with a bill that says: What is our response to 9/11? Our response is the President has too many national security powers.

That is exactly what the Lieberman bill does.

Incredibly, the President today has the power, in the name of national security, to set aside union work rules.

The majority leader said yesterday:

> Show me one time in history when the circumstances threatening our country demanded we forgo the protections built into laws for Federal workers.

Well, let me give you, very quickly, some concrete examples of exactly why, after 9/11, we need to preserve the powers the President has today. Let me remind my colleagues, today, prior to 9/11, the President had used these powers, as President Clinton did, to set aside union contracts in the FBI, the CIA, the National Security Agency, the Air Marshals Office of the Federal Aviation Administration, the Office of Criminal Enforcement, and the Office of Enforcement and Intelligence at the Drug Enforcement Agency.

Workers in those offices today are working under the procedures the President has asked that he be allowed to continue to exercise.

What kinds of problems do you run into with these silly union work rules? Let me say to my colleagues, I don't see how anybody with a straight face can stand on the floor of the Senate and defend the civil service system as it exists today, when you are talking about threats to the lives of our children and our families. It is not as if we have not been warned. The Grace Commission warned us. The Volcker Commission stated:

> The current system is slow. It is legally trampled and intellectually confused. It is impossible to explain to potential candidates. It is almost certainly not fulfilling the spirit of our mandate to hire the most meritorious candidates.

That is Paul Volcker, and that is in 1989.

Our colleague, Senator Rudman headed the U.S. Commission on National Security. We all know Warren Rudman. We all know he is no union basher. We all know he has good judgment and good sense. This is what he said:

> Today's Civil Service system has become a drag on our national security. The morass of rules, regulation and bureaucracy prevent the government from hiring and retaining the workforce that is required to combat the threats of the future.

I could go on. For example, the Brookings Institution has shown study after study that the system is broken.

Now, after giving President Carter, President Reagan, President Bush, President Clinton, and the current President Bush the power to set aside these union work rules for national security reasons, and after the events of 9/11, the majority brings forth a bill that says: Well, we gave this power to President Clinton and we gave the power to President Carter, but after 9/11, we are going to take away security powers of the President.

That is offensive and ludicrous on its face, and when the American people discover it, they are going to go absolutely crazy. When they discover that we currently have eight agencies operating under these rules today, and the Congress, in its response to 9/11, wants to say: Well, we are going to take away powers from this President that President Clinton needed and President Carter needed—I don't think so. I don't think people are going to buy it.

What kinds of impediments are we talking about? Well, let me touch a few. These are actual cases. I am not talking about theoretical cases. The majority leader says, show him examples of where these work rules interfere with national security. Let me quickly give you a handful of them.

We had an effort in Customs, in 1987, to change the makeup of our inspection center in the Customs office at Logan Airport. The idea was, change the makeup of the office in order to make it more efficient in fulfilling the functions of Customs. Guess what? Customs tried to change the configuration of the room. The public employee labor union, representing Customs officials, appealed to the Federal Labor Relations Authority, and the power of the Administration to change the configuration of the inspection room was rejected.

Do we really want some work rule negotiated prior to 9/11 to prevent us from finding somebody who is carrying a bomb on a plane with your momma? Have people gone completely crazy? What is going on here?

Let me touch on a couple of these. Union work rules prohibited an agency from working together to protect the border. Literally, as our former drug czar Barry McCaffrey pointed out, the union work rules prohibited one of the agencies from opening trunks. The drug smugglers were aware of it, had people at the border watching, and decided to move drugs based on those work rules.

What if that is poisonous gas or biological weapons or a nuclear weapon coming into New York Harbor? We are going to go to the National Labor Relations Authority to renegotiate a union contract when millions of lives are at stake? I don't think so. And the idea that our colleagues would believe such a thing is possible just shows you how out of touch some people are with their commitment to the status quo as compared to their commitment to the job at hand.

Very quickly, because I am running out of time, there was a prohibition of agencies for increasing the number of immigration inspectors. We had an effort to increase the number of inspections of immigration inspectors in 1990. And under union work rules, it was rejected because of a union contract.

Do people really think, in light of 9/11, we should allow a union contract to stand in our way and spend months and months and months before the National Labor Relations Authority trying to change that contract, rather than saying there is a clear and present danger to America and we want to change it today?

Now, the President has that power. But under the Lieberman bill, that power would be taken away. I could go on and give you dozens of real-life examples of how ridiculous these union work rules are. Look, if we were not talking about people's lives, we could all play this game of just saying how sacred these union work rules are that make our Federal Government the laughingstock of the country and the world. But when we are talking about lives and talking about the powers that four Presidents have had, the idea that we are going to take that power away from this President, at this time, is totally unacceptable.

To add insult to injury, the President has asked for flexibility. He has asked for the right to promote good people and put them in the right place, and not wait 5 months to hire somebody, and to fire incompetents. The President cannot promote the lady from the FBI who sent a memo to the home office saying: Hey, we have people with terrorist links who are learning to fly planes and not land them, and maybe we ought to do something about it.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 a.m. having arrived, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m. with Senators permitted to speak therein for up to 10 minutes each.

Mr. GRAMM. Madam President, I ask unanimous consent to speak for 10 minutes.

Mrs. BOXER. I object. I ask if the Senator can complete in 5 minutes.

Mr. GRAMM. Yes, I can do it in 5 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, the President wanted the ability to do things such as promote that FBI agent because, had we been able to get through that massive, incoherent system in which we are working, we might have prevented the attacks.

I also think we might want to fire the people at INS who gave visas to the people who had flown a plane into the World Trade Center after their picture had been on every television in the world and on the front page of every newspaper.

We have, as a Senate, approved those flexibilities, those powers, for the Transportation Security Administration, the Internal Revenue Service, the FAA, and we did that prior to 9/11. But after 9/11, we are told that the President, under national security circumstances, with a declaration of a clear and present danger to our people, cannot have the kind of flexibility in homeland security that we gave to a previous President for the Internal Revenue Service. To make the Internal Revenue Service more responsible, we gave President Bill Clinton, personnel flexibility. But now, to protect the lives of our people in homeland security, are we not willing to give the same flexibility to President Bush?

When the American people finally discover what is going on here, they are going to be outraged, and they are going to discover it because, despite our best efforts of saying let's work together, let's do this on a bipartisan effort, it is clear now that there is going to be a battle. It is clear now that we are going to have to choose between the status quo, the old way of doing business, and the health, safety, and lives of our people.

The choice is as stark as a choice can be. The bill that is before us literally takes power away from the President that every President since Jimmy Carter has had to use national security waivers. It takes that power away from the President in the aftermath of 9/11. The American people will never understand that, and they will never accept it. They will never accept a compromise on it.

When the American people realize we were concerned enough about the Internal Revenue Service's operation that we gave President Clinton personnel flexibility to hire and fire and promote, because we thought it was important, but we are not willing to give President Bush the same flexibility to protect the lives of our people, I don't think they are going to take kindly to that.

The plain truth is that we have a bill before us that protects everything except national security. It protects every special interest group in the American Government. The plain truth is, the people who work for the Government want these changes. An OPM poll looking at accountability in the Federal Government. By very large margins, two-thirds of the people who are Federal workers believe that Federal performers are not adequately disciplined. Nearly half of all workers believe job performance has little or nothing to do with promotion and raises, and 99 percent of people who got bad evaluations last year in the Federal Government got pay raises. When we are talking about national security, when we are looking at the aftermath of 9/11, it is time for change. It is not time for the same old special interests.

So what we are asking, in essence, is very simply—and I will conclude on this—let this President keep the power that every President since Jimmy Carter has had, which is to use national security waivers. That hardly seems extreme given the attack on America and the deaths of thousands of our people. Give this President the same flexibility in national security and homeland security that we gave Bill Clinton with the Internal Revenue Service. If that sounds extreme, you are looking at things differently than I.

The PRESIDING OFFICER. Under the previous order, the first half of the time is under the control of the majority leader or his designee, and the second half of the time is under the control of the Republican leader or his designee.

Mr. REID. Madam President, my friend from Texas got an extra 5 minutes. I ask that it be charged against the Republicans' time in morning business.

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003—Continued

The PRESIDING OFFICER. The Senate will now continue with the Department of the Interior appropriations bill.

The pending Craig amendment will be temporarily set aside.

The Senator from California is recognized.

AMENDMENT NO. 4573 TO AMENDMENT NO. 4472

Mrs. BOXER. Madam President, I send an amendment to the desk. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. INOUYE, and Mr. CAMPBELL, proposes an amendment numbered 4573 to amendment No. 4472.

The amendment is as follows:

(Purpose: To prohibit the use of funds to determine the validity of mining claims of, or to approve the plan of operations submitted by, the Glamis Imperial Corporation for the Imperial project in the State of California)

On page 64, between lines 15 and 16, insert the following:

SEC. 1___. IMPERIAL PROJECT.

Notwithstanding any other provision of law, none of the funds provided by this Act or under any other Act may be used by the Secretary of the Interior to determine the validity of mining claims of, or to approve the plan of operations submitted by, the Glamis Imperial Corporation for the Imperial project, an open-pit gold mine located on public land administered by the Bureau of Land Management in Imperial County, California.

Mrs. BOXER. This amendment would prohibit the use of funds to determine the validity of mining claims of, or to approve the plan of operations submitted by, the Glamis Imperial Corporation for the Imperial project in California. It has been cleared by the leaders, and I thank them very much. I ask that the Senate adopt it at this time.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4573) was agreed to.

Mr. BURNS. Madam President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4574 TO AMENDMENT NO. 4472

Mr. BURNS. Madam President, I send to the desk an amendment for Mr. BROWNBACK of Kansas and ask for its consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for Mr. BROWNBACK, proposes an amendment numbered 4574 to amendment No. 4472.

The amendment is as follows:

(Purpose: To clarify the effect of certain provisions on the application of a Federal appellate decision and the use of certain Indian land)

On page 64, between lines 15 and 16, insert the following:

SEC. 1___. EFFECT OF CERTAIN PROVISIONS ON DECISION AND INDIAN LAND.

(a) IN GENERAL.—Nothing in section 134 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (115 Stat. 443) affects the decision of the United States Court of Appeals for the 10th Circuit in Sac and Fox Nation v. Norton, 240 F.3d 1250 (2001).

(b) USE OF CERTAIN INDIAN LAND.—Nothing in this section permits the conduct of gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 944), or land that is contiguous to that land, regardless of whether the land or contiguous land has been taken into trust by the Secretary of the Interior.

Mr. BURNS. Madam President, this amendment provides that nothing in section 134 of the fiscal year 2002 Interior bill shall impact ongoing litigation involving the Department of the Interior and the Sac and Fox Nation. This language has previously been passed by the Senate and addresses the inadvertent impact of language adopted in conference on the fiscal year 2002 bill. I recommend its adoption.

Mr. REID. There is no objection on this side.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 4574) was agreed to.

Mr. BURNS. I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask that now we move to morning business.

Mr. BURNS. Madam President, I ask unanimous consent that on completion of morning business, the Craig amendment be the pending business when we reopen discussions on the appropriations bill.

Mr. REID. Reserving the right to object, would that be the order anyway?

The PRESIDING OFFICER. That is the order.

Mr. BURNS. I did not know.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period for morning business as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate is in a period for morning business.

The Senate majority leader.

Mr. DASCHLE. Madam President, I will use my leader time. I ask unanimous consent to extend the time, should that be required, to complete my presentation this morning.

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

THE STATE OF ECONOMIC SECURITY

Mr. DASCHLE. Madam President, we had a very good discussion this morning with the President talking about national security in several contexts—of course, the war on terror and the important challenges this country faces in continuing to make this country and the world a safer place in which to live. The arrests over the weekend and the cooperation we got from Pakistan ought to be particularly noted, and we ought to thank the Government of Pakistan for their cooperation. We talked about that this morning.

We talked about Iraq and the threat it poses to us. We talked about the need for cooperation when dealing with the threats posed by Iraq, not only within the Congress and the country, but in the international community. So we had a very good discussion about national security, and I believe it ought to be uppermost in the minds of all people, and certainly the Congress as we continue to complete our responsibilities in the second session of the 107th Congress.

Let me also say, just as we properly recognize the threat that exists in more traditional national security areas, we, as a country and particularly as a government, would be remiss in our responsibilities were we not to address economic security, were we not to recognize the peril this country is in economically, So, in addition to acknowledging the importance of our defense activities, I also wanted to come to the Chamber this morning to express my concern for the lack of attention paid to the state of economic security, to express the concern that many of us have with regard to what has been a very unfortunate, some would even say tragic, economic trend in this country over the course of the last 18 months.

I have a number of charts that reflect more graphically some of these concerns, and I want, if I may, to walk through some of them at this time.

If we look at the record of this administration over the past 18 months, perhaps it is best summarized in the very first chart: Record job losses; weak economic growth; declining business investment; falling stock market; shrinking retirement accounts; eroding consumer confidence; rising health care costs; escalating foreclosures; vanishing surpluses and higher resulting interest costs; raiding the Social Security trust fund; record executive pay; and stagnating minimum wage.

If you were going to use the shortest list with the greatest concern, this chart is it.

Let me go through many of these individual concerns a little more thoroughly. Over the last 2 years—actually

the last 18 months—we have lost 2 million jobs—private sector jobs in this country.

If there is any one criteria that would, more than any other, illustrate the health of the economy, it would be job growth. If the economy is growing, jobs are going to be there. If it is contracting, if the economy is weak or contracting, the jobs will not be there. We have lost 2 million jobs in 18 months.

People might say: Well, that just happens; other administrations have lost jobs.

If you wanted to go back and look at what other administrations have actually done, you would probably have to go all the way back to the 1930s to see the last time in our Nation's history when we last witnessed a loss in private sector jobs over the course of the life of an administration. Private sector jobs during this administration have declined by 1.2 percent on an average annual basis.

Over the last 50 years, in every administration since Dwight Eisenhower, we have seen private sector job growth. It was not much in the Eisenhower administration. It was even less under the first Bush administration. And we have seen remarkable job growth on three other occasions—the Johnson administration in the 1960s, the Carter administration in the 1970s, and the Clinton administration in the 1990s.

What have we seen in the first few years of the current administration? We have actually seen a decline in the number of private sector jobs for the first time in 50 years.

One can look at it another way. It is not only how many jobs are lost. It is also important to see how many people have been trying to find jobs for long periods of time and have been unable to do so, those who have been out of work for more than 6 months, the so-called long-term unemployed. Some who lose their job are able to quickly find another one. For those who are unable to do so, such as those who fall into the category of long-term unemployed, we continue to come to this Chamber and press for the passage of unemployment compensation extensions.

In January of 2001, the number of long-term unemployed was 648,000. In August of this year, that number had more than doubled to 1,474,000 people. That is also one of the most tragic figures. There is a human story behind every one of those numbers. Not only is that individual unemployed, but most likely that person and perhaps their family are without income. Most likely it is a family trying to survive on what meager unemployment compensation they have, looking for odd jobs, doing whatever they can to make ends meet. And today you have more than 1.4 million people who have suffered as a result of this administration's economic policies for the last 18 months.

The larger picture beyond employment that is frequently used to gauge the performance of the economy is the change in our real gross domestic product. That is probably the most traditional economic indicator for assessing the strength of the economy. In the first 18 months of this administration, the economy has grown by 1 percent. The rate of growth was twice that figure under the first Bush administration. But those are the two lowest economic performances, the most meager economic performances we have seen in the last 50 years. President Eisenhower had economic growth of 2.4 percent; Kennedy, 5.4 percent; Johnson, 4.9 percent; the Clinton administration, 3.6 percent. We have seen growth, fortunately, in every administration.

But in all those administrations with all the economic ups and downs we have seen, it is clear this administration has the worst performance in terms of real economic growth that we have seen in the last 50 years. That anemic economic performance has had huge consequences in national terms as well as in personal terms for American workers, American businesses, American investors, and American pension holders.

This chart shows what has happened to the value of investments at the New York Stock Exchange and the NASDAQ stock market under this administration. When this administration took office in January, 2001, the overall market value, the market capitalization in those two markets alone, was $16.4 trillion. That was an all-time high. We had never seen anything close to that level. Under the Clinton administration, the markets had been booming. We saw growth in an unprecedented way.

We expected, everyone expected, that growth to continue. But that is not what happened. What happened, instead, was over the last 18 months that $16.4 trillion pie has now shrunk to $11.9 trillion. We have lost $4.5 trillion in market capitalization just in 18 months.

I defy anyone to find a record more abysmal when it comes to overall market valuation that is even comparable to the enormous loss we have seen in just the past 18 months.

It goes beyond that. If you look at an individual worker's retirement savings—that is what we are talking about when we talk about the loss of market capitalization—the impact is profound. If that worker had a $100,000 retirement fund invested in the market in 2001 and kept it there during the 18 months this administration has been in office, that loss in market capitalization would mean the worker saw the value of his retirement savings decline by more than $31,000. In other words, the worker in just 18 months has lost nearly a third of the nest egg he was counting on for the balance of his retirement, all of their retiring years. One-third of his retirement savings meant for a life time, gone in 18 months.

Not surprisingly, this shrinkage in market capitalization has had a profound effect on pensioners. It is why, when I was home over both the Fourth of July and August recesses, I was amazed to hear how frequently people came up and said, Tom, you know, I just saw my latest statement regarding my retirement. I think there was a mistake. I cannot believe what has happened. The value of my pension has declined precipitously. This is a shock to us all. You have to do something.

These large economic numbers have large financial consequences for people in South Dakota and all over this country who believed if they regularly contributed to their retirement investment accounts, they would have retirement security. That security is not there today, a mere 18 months after this administration took office.

Again, how does that compare? Some will say: Ups and downs in the market are just a way of life; those are cycles; accept the cycles; that is the way it works. However, if you look at the average annual change in the value of the market, you have to go back a long time to find a period where the performance is as bad as what we are witnessing now.

During the Nixon administration, we lost approximately 5 percent in the S&P 500 account. You have to go all the way back to Herbert Hoover to see a performance in the Standard & Poors 500 equal to what we are experiencing right now. We saw a 30 percent decline under Herbert Hoover as compared to the 20 percent in the first 18 months of this administration. And this administration's watch is still ticking; that one is over.

But look at all the other years, all the other administrations, all the other record performances, all the other economic strategies. It grew 15 percent in the Clinton administration; it grew 14 percent in the Ford administration; it even grew in the Coolidge administration. But if I had to pick one chart that compares economic performance, I cannot think of a more graphic illustration of how terrible this economy truly is and how poorly our markets are performing and how little confidence there is in the economic strategy of this administration.

Again, I come back to what does this all really mean to the working family, to that rancher or farmer or small businessman, or to that hard-hat worker or blue-collar worker who comes to me in South Dakota? We have seen that meager economic growth and a collapsing stock market means fewer jobs, more unemployment, and less retirement security. But what has happened to the costs of their basic goods and services?

Workers' payments for health insurance provides an excellent example of how strapped these people are. In just the past 18 months since this administration took office, the cost of an average family's health insurance coverage, a basic need for all families, has gone up 16 percent. Single coverage has gone up 27 percent. That is the kind of record we are talking about.

We can move this to other aspects of health care. We see a similar trend when we look at the rising cost of prescription drugs. While the Consumer Price Index has gone up 1.6 percent since this administration took office, the cost of prescription drugs has grown by 5.7 percent, almost four times greater than the overall inflation rate.

We also have seen something else we never thought we would see a dramatic increase in the number of foreclosures. A number of our colleagues have followed this even more closely than I have and have noted we are not just talking here about minimum wage workers when we talk about foreclosures. We are not just talking about people at the lowest end of the economic scale. What has happened is a phenomena we have not seen in a long time in this country. Middle-class workers, people with good incomes when working, are watching their mortgages foreclose. The thousands of layoffs have caused an increasing number of them to suffer in another way, the personal pain of losing their home. At the end of last year, 1.15 percent of mortgage loans were in foreclosure. By the second quarter of this year, that number had grown to 1.63 percent, an increase that affects not only lower income workers but workers across the economic scale.

Another tragic aspect of this administration's economic policies can be seen when we look at its impact on our fiscal circumstances. We have talked about market capitalization. We have talked about the loss of jobs. We have talked about the economic pain our working families are feeling as they see their own pension security come down. As they see unemployment rolls go up, as they see the long-term unemployed numbers continue to climb, as they see all of that on one side and higher costs for health care and prescription drugs on the other, they ask why.

How in the world could all of this happen in such a short period of time? There are a lot of answers to that question. But if I could point to one in particular, it would be this. If there is one reason we have seen the dramatic turn in such a short period of time, the historic turn in the economy, it is the unprecedented reversal in the federal government's fiscal picture. When President Bush took office, the Congressional Budget Office projected a $5.6 trillion surplus. As a result of what the President has signed into law or is currently proposing, the surplus projection becomes a $400 billion deficit. What does that do to economic confidence? What does that do to market capitalization? What does that do to long-term projections? To long-term interest rates? What does that do to the overall psychology in the economy, to see this precipitous a decline?

I was talking to a journalist the other day, about what history will say about the last 2 years. I hope to have something to say about the way it is written. I am excited about a project I am working on in that regard. But he said, as we consider all of the historic moments of the last 2 years, the one that he believes has the greatest consequence for our country is the President's tax cut proposal. You know, a lot of people would argue he was right. The tragic set of financial and economic circumstances we are witnessing today, is directly connected to the tragic decline in our fiscal circumstance.

This can be illustrated another way. At the beginning of last year, CBO projected the publicly held debt would be $36 billion by the year 2008. In fact, members actually came to the Senate floor to argue we were paying down the debt too quickly, and we would pay a price for having done so. Let me say that problem is no longer a concern. There is no way we are going to have to worry about paying off anything too quickly because in the space of 18 months that projection has grown from $36 billion to the new projection issued last month of $3.8 trillion. That is the record.

We have gone from a projected $5.6 trillion surplus to a $400 billion deficit and from $36 billion in projected debt by 2008 to $3.8 trillion. What a tragic, deplorable, abysmal set of circumstances for us to find ourselves in as we close out this session of Congress.

The Bush economic record could be also described in terms of what it costs us. You can talk about deficits. You can talk about all the economic impact that deficit may have, the accumulated debt. But practically speaking, what it really means is that we have to pay hundreds of billion in additional interest costs. It is thievery. It is robbery. Increased interest payments steal from the very heart and soul of the commitments we have to make, as a country, to national defense, to education, to housing, to infrastructure, or to additional tax cuts. In short, these costs take away resources from all of national security, economic, and environmental priorities facing our nation today. They are all robbed by the fact that we have to pay $1.9 trillion in interest costs over the next 10 years. When this administration took office, we thought we were only going to have to pay $620 billion. Since this administration took office, we have gone from $620 billion in interest costs to $1.9 trillion. And every dollar was either going to be dedicated to Social Security or dealing with the investments we as a country must make, or in tax cuts, the need for which both sides have talked about.

When you talk about what the historic fiscal reversal means in real terms, it is higher interest costs, it is lack of an opportunity to invest in national defense, education, and health.

But here is the real story. We all promised—I will bet there is not a Senator in this Chamber who did not say: We are going to put Social Security first; who did not rise to the standards set by the past administration in saying to the country: Whatever else we do, we are going to protect Social Security.

In fact, President Bush had a Web page. I haven't looked recently to see if it is still there. But the President made a solemn pledge on that Web page: I will never take a dollar of your Social Security trust funds.

Here we are. We had a commitment in January of 2001 that we were never going to touch those Social Security dollars. We find ourselves now, in August of 2002, having already committed $2 trillion of the Social Security trust fund—$2 trillion, and we are not finished yet. That number is going to continue to grow. If current economic trends continue and we enact the President's tax and spending proposals, there is no doubt we will be spending even more of the Social Security trust fund. What is the President's solution? Mr. President, President Bush's solution appears to be pretty clear. There is not any other solution I have heard this administration talk about. They have one all-purpose, economic antidote to everything, and that is tax cuts—tax cuts largely dedicated to those at the very top. The only thing I have seen the Bush administration fail to suggest a tax cut for, so far, is the drought. Except for the drought, I can't think of another serious problem this country faces where the administration has offered up a tax cut as the solution.

Let's look a little bit at the tax cut proposed by this administration. The Bush economic record already is very clear. This is already on the books. This is what is going to happen. The tax cuts that have been enacted so far favor the very wealthiest of Americans. If you are in the lowest 20th percentile, with an average income of $9,300 a year, your average annual tax cut was $66. We have a lot of South Dakotans in that category.

If you are in the second 20 percent, with an average income of $20,000—and I would say that is the majority of South Dakotans, the overwhelming majority—you get $375 a year.

If you are in the upper brackets in my State, making somewhere around $40,000, your tax cut was $600 a year.

If you make $56,000—now we are getting into pretty rare air here in my state—you get a tax cut of about $1,000. If you make about $100,000 year, you get a tax cut of $2,000. If you make $210,000—there are not many of those in South Dakota—you get a tax cut of $3,345.

If you make an average of $1.1 million a year and you are in that top 1 percent, you get a tax cut of $53,000, an amount that is actually twice the average income of the people in the State of the Presiding Officer, South Dakota.

These are the beneficiaries. A lot of these people make a lot more than $1 million a year. They make $700 million, $148 million, $127 million, down to $23 million a year. Look at all those names

and all that money, and you know where their friends are. You know who their defenders are.

(Mr. JOHNSON assumed the Chair.)

Mr. SARBANES. Will the Senator yield for a question on that chart momentarily?

Mr. DASCHLE. I am happy to yield.

Mr. SARBANES. If I understand this chart, if you are in the top 1 percent of the wealthiest Americans, under the President's proposal you would receive a tax cut that would equal the income—not the tax cut—of approximately six earners in the lowest 20 percent of the income scale. In other words, the people in that income scale have an average income of about $9,000 year, as I understand the chart. They would get a tax cut of $66 a year. They get $9,000 in total income, while the upper 1 percent will get a tax cut just shy of $54,000. The tax cut alone is equal to the earnings of six people in the bottom 20 percent of the income scale.

Is that correct?

Mr. DASCHLE. The chairman of the Banking Committee has put his finger on exactly what it is we are trying to focus on here—the disparity and the extraordinary maldistribution this tax cut represents. There is an unbelievable disconnect here between those at the lowest end who have already seen cuts in education and health care, declines in their retirement accounts, and who are probably in many cases working three or four minimum wage jobs, attempting to make a living. They get a $66 tax cut. Those making an average of $1.1 million a year get a tax cut of more than $53,000. In fact, some in this category make more than $700 million a year and who knows the size of the tax cut these people would get?

The sad thing is—and the Senator from Maryland makes such a good point—that those people who have virtually no tax cut available to them are the very ones who have seen their purchasing power decline.

Since 1997, we have seen the real earnings of full-time minimum wage workers, over half of whom are women and heads of households, decline from $11,560 to $10,300. But can we get a minimum wage vote on this floor? Can we get the kind of support on a bipartisan basis required to deal with this situation? No. We can get the support for that $53,000 tax cut for the top 1 percent. But I can't find the Republican support nor the administration support and leadership required to deal with this extraordinary and sad consequence of the government's inaction on the minimum wage.

Mr. CORZINE. Mr. President, will the leader yield for a question?

Mr. DASCHLE. I would be happy to yield to the Senator from New Jersey.

Mr. CORZINE. Did I hear the leader suggest that we are talking about taking $2 trillion out of the Social Security trust fund to fund the other things that are going on with regard to economic policy? If I am not mistaken, I think I saw a chart that projected $2 trillion and how we would utilize the Social Security trust fund. I think those are payroll taxes from working Americans from all walks of life.

Then, if I am not mistaken, as I looked at your chart where the tax cuts are actually going, it would appear to me that we are using the Social Security trust fund to fund tax cuts for those at the very high end of the marginal tax brackets.

Is my analysis from looking at your charts correct? Does the leader have a comment on that?

Mr. DASCHLE. The distinguished Senator from New Jersey makes a very good point. Probably no one can make that point with greater credibility than can he.

Let me just simply compare this chart. You have seen an increase in the draw down of the Social Security trust fund. We have actually spent $2 trillion of Social Security. We put those resources into this tax cut, providing $53,000 per year to the top 1 percent of income earners in this country. You have seen an income transfer from those paying payroll taxes—largely at the lower end of the income scale—to those at the upper end of the income scale. This represents an income transfer in the opposite direction from poor working people to those at the very top.

Mr. CORZINE. If the leader will bear with me a second, if we look at the table he has with regard to the second level, it looks as though some of the individuals who will benefit the most from this tax cut—it is almost inconceivable that we are using payroll taxes for men and women at WorldCom and Enron. It is just hard to believe.

Mr. DASCHLE. I know the Senator from New Jersey remembers this. But I recall the House passed their economic stimulus package, and part of that package included a $254 million retroactive tax cut for Enron. The administration saw no problem with that. Our Republican friends were anxious to vote for it. In fact, when we stopped it, we were called obstructionists. But that was the kind of obstructionism that stopped Enron from getting $254 million from their taxes.

To summarize, what ought to be going up is coming down and what ought to be going down is coming up. What ought to go down is the raid on the Social Security trust fund. It is going up. What ought to go down are interest costs, but they are going up. What ought to go down is the national debt, but it is going up. What ought to go down are foreclosures, health care costs, and job losses, but they are going up. What ought to go up—economic growth—is going down. What ought to go up is business investment, the market, retirement accounts, consumer confidence, and the minimum wage. They ought to go up. But in these last 18 months, every single one of these factors has gone down.

This will be the subject of a lot more discussion, debate, and hopefully illumination over the course of the next several weeks and months. But we have to change these arrows. We have to ensure that economic growth goes up. We have to ensure that the stock market, retirement accounts, pension funds, consumer confidence, and the minimum wage go up. We have to do what we did in the 1990s—have an economic performance that gives people the sense that they can live in dignity and in confidence, knowing their retirement accounts and Social Security checks are going to be there.

We have to end the job loss, deal with health care costs, and make sure we reduce the raid on the Social Security trust fund.

I hope Republicans and Democrats can do for economic security what we are attempting now to for our national security—recognizing that this won't change unless we do it together, and recognizing that while this national security issue dealing with Iraq may be accomplished with one resolution, it is going to take a lot more than one resolution to turn our economy around. It is going to take the same kind of discipline we demonstrated in the 1990s. It is going to take the same kind of commitment on a bipartisan basis for these issues to be addressed, and a lot more consequential.

As busy as we are and as important as the effort on Iraq is, I hope this administration will dedicate some of its time this week to economic security as well, to these declining numbers, to this atrocious record, to a recognition that it takes leadership not only with regard to international and foreign policy but leadership here at home and economic policy as well. We haven't seen it to date, and the time has come for leadership on this as well.

I yield the floor.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the time the majority used in excess of our half hour be extended to the minority for morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland.

UNEMPLOYMENT BENEFIT INSURANCE

Mr. SARBANES. Mr. President, I thank the distinguished majority leader for his excellent presentation with respect to the state of our economy. He has described in very straightforward terms the serious economic problems we confront: weak economic growth, rising job losses, declining business investment, a falling stock market, eroding consumer confidence, and a deteriorating Federal Government fiscal position.

Just this morning, the Wall Street Journal reported:

What looked like a brief dip in economic activity a month ago looks increasingly like a protected slowdown. . . . The Federal Reserve said Tuesday that industrial production fell 0.3 percent in August from July, the first decline since December, when the recession was ending.

The majority leader made a compelling case, in my view, for focusing the attention of the Congress and the President on the urgent economic challenges we confront at home, as well as the significant security and foreign policy challenges we confront abroad.

I wish to take a few moments to focus briefly on a very pressing economic challenge that is before us right now and which ought to be addressed before the end of the year: the problem of the long-term unemployed and the need to extend unemployment insurance benefits. I urge the administration to submit to the Congress a proposal for the extension of unemployment insurance benefits.

On September 9, the New York Times ran a front page story entitled, ''Long-Term Jobless Rose by 50 Percent Last Year.'' The article stated—and I now quote from it—

. . . the number of people who have been jobless for months has climbed to a level more typical of a deep downturn. Almost three million people nationwide have been out of work for at least 15 weeks, up more than 50 percent from a year ago. Half of them have not worked for at least 6 months. Another million Americans appear to have dropped out of the labor force in each of the past two years, no longer looking for work or counted as unemployed. . . . Many people who have not worked in months have begun spending retirement savings that were already diminished by the stock market's fall. Others are considering low-wage jobs at a fraction of their old pay. In either case, their stretches of unemployment could define their financial futures for years.

It goes on to say:

Many unemployed people . . . see little sign that companies will soon begin hiring in large numbers. And some are growing increasingly nervous because unemployment benefits that were extended . . . will expire soon.

I want to make a very simple but important point in light of this rise in the long-term unemployed and the challenge that it presents. I strongly urge the administration to address it and to send the proposal to the Congress.

We extended the unemployment compensation program earlier this year to provide an additional 13 weeks beyond the basic 26 weeks. But this program is scheduled to end on December 31 of this year, which means that someone who is then in the 27th week of their benefits at the end of 2002 could receive no further unemployment benefits. This program is scheduled to end at the very time when the number of long-term unemployed is not coming down, but is increasing.

The projections on the unemployment front are not encouraging. The CBO predicts the unemployment rate will remain near 6 percent until the second half of next year. When we enacted the extension, it was at 5.7 percent. Unemployment is projected to stay high well into next year, while the extension is scheduled to expire on December 31 of this year.

Now, in previous recessions—and it is important to note this—we extended the increase in the time period to collect unemployment benefits. Back in the recession of 1990–1991, unemployment benefits were extended five separate times. In fact, not only were they initially extended by 13 to 20 weeks but then the period was lengthened again to between 52 and 59 weeks. I am very frank to tell you I think we have to confront this situation.

States are reporting larger increases in the exhaustion of unemployment benefits during this recession than during the last recession. So for those people who have been thrown out of work—and I am not going to go through the litany of it; much of it has hit the dot-com industry—they either have or are close to having exhausted their unemployment benefit payments. They are going to be in even deeper trouble once they cross that threshold and exhaust their unemployment benefit payments.

I am not seeking anything that is out of the ordinary in terms of past experience, but I think these benefits must be extended.

Let me make one final point. The temporary provision of additional Federal benefits to the unemployed, in the wake of economic downturns, has long served a dual purpose. Beyond providing needed income support to those whose spells of unemployment are lengthened by recessionary conditions, it is also very well designed to give the economy a boost.

Unemployment benefits are quickly injected into the economy. Benefits can be paid immediately through the existing unemployment insurance system. They are targeted to areas where the downturn has hit the hardest. They go to areas with large concentrations of newly unemployed who qualify for benefits. They stimulate demand where it has deteriorated the most. They are very effective in boosting the economy. And, of course, they come to the rescue of people who have found themselves out of work and are under extreme stress in order to meet the financial demands of supporting themselves and often their family as well.

So we need to extend unemployment benefits. We need to fill in the weaknesses in the system. We need to give the people who have lost their jobs, and are now confronting a very severe situation, some support in these trying circumstances.

We have extended unemployment benefits before repeatedly. It has worked. It has been seen to work. We need to do so again. I very strongly urge the administration to face this challenge and to send to the Congress—promptly and immediately—a proposal with respect to unemployment insurance benefits that would help to assure that the millions of people across the country, who already have or may in the future exhaust their unemployment benefits, will not find themselves without any income support at the same time that they are confronting an economy in which job restoration is not taking place.

If job restoration were taking place, and the economy was on the upswing, and one could reasonably say to people, well, opportunities are returning and, therefore, you can find work. But that is not what is happening. You have people facing an economy which is softening, as the Wall Street Journal reported just this morning, as they said, ''What looked like a brief dip in economic activity a month ago looks increasingly like a protracted slowdown. . . .''

We must at a minimum provide this assistance.

I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. REID. I want to make sure the record is clear. I asked earlier, whatever time Senator DASCHLE used be given to the Republican side in morning business, so that their morning business time would be extended by whatever time we went over morning business, which had been a half hour, plus whatever extra time he used.

How much time would that be, Mr. President?

The PRESIDING OFFICER. It would require 5 minutes.

Mr. REID. OK. And then whatever time Senator SARBANES used, that would also be given to them to speak in morning business. Is it clear the extra time used by Senator DASCHLE and the time used by Senator SARBANES would be given to the Republicans so they could speak in morning business, and that would delay our going to the homeland security bill for whatever additional time that is? I ask unanimous consent that be the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I listened intently as the majority leader spoke. I remind my colleagues, we are debating homeland security and that we are preparing for a debate and a vote on Iraq.

I don't think it ever does any harm, however, to talk about the fact that the country has additional challenges. I guess I would express two sources of disappointment with the speech the majority leader gave. The first source of disappointment would have to do with the absence of a program to deal with a single one of these problems.

Anybody who goes back and listens to that long litany of woe would say: What did the majority leader say we are supposed to do about it? One would

search in vain, except for the hint of a program which I would have to say is sort of modeled after the Peronist economic program in Argentina today, which is to increase taxes and to spend more money.

In fact, I remind my colleagues, if we are as concerned as we say about the economy and about the security of our people, the logical place to start doing something about it is in the Senate. The plain truth is, if there has been one place where there has been inaction on issues relevant to the economy and relevant to the American people, it is the Senate.

In fact, the President proposed a budget in January. The House adopted a budget. The Senate not only has not adopted a budget, but we have made it eminently clear that we have no intention of adopting a budget.

I would have to say that if the majority is concerned about all these problems and the majority leader has the ability to bring a budget to the floor of the Senate tomorrow, a logical place to show that concern would be to do something about it by adopting a budget.

The plain truth is, we have adopted no budget, and we have continued to spend as if we still had the surplus that existed prior to the downturn and prior to the war.

In terms of prescription drugs for seniors under Medicare, the President has proposed a program. The House has adopted a program. But in the Senate, there is no program. The Finance Committee was never allowed to meet on the subject to put forward a bill. A hodgepodge of ideas came to the floor of the Senate. No consensus was built. It became a partisan issue. There was no action.

One thing that we could clearly do to bring stability to the economy and to promote job creation and economic growth would be to make the tax cuts permanent. What is more destabilizing to investment and economic growth than the fact that 9 years from today we will have the largest tax increase in American history? And it will occur automatically if we don't act.

In terms of homeland security, the President proposed a bill. The House acted. In the Senate, we have had inaction. We have had endless debate. We have talked about working together. We have talked about bipartisanship, but there is no bipartisanship on this issue. In fact, the Democrats have come forward with a bill that takes power away from the Presidency and the national security powers that President Carter had, President Reagan had, President Bush had, President Clinton had. But now, in the wake of thousands of our people being killed in a terrorist attack, suddenly our Democrat brethren say the President has too much national security power and they want to take some of it away from him. The American people are going to go absolutely crazy when they realize that this is the case.

In terms of welfare reform, the 1996 reforms were the greatest success in public policy in the postwar period. Now, the President has proposed a welfare reform bill. The House has adopted a welfare reform bill. But there is no action on welfare reform in the Senate.

Finally, the President proposed appropriations. Not one appropriations bill in its final form has passed the Congress, and only three have passed the Senate.

I would have to say there is a missing ingredient in the Majority Leader's speech when he talks about all the problems we face economically. When you look at the record of the Senate, let's begin at home. Let's begin to solve the problem where we live. That problem is in the Senate.

I will address two other issues because I know our Republican Leader wishes to speak. I would have to take exception, as I said last Tuesday that I would, on the issue about deficits. I do not understand how our Democrat colleagues can continue to stand up and moan and grown and cry about deficits as if they come from heaven, as if somehow God just said: We are going to have deficits. Deficits don't come from heaven; they are created right here on the floor of the Senate.

I would have to say that when we are talking about a commitment not to raid Social Security, when we are talking about concern about the deficit, I remind my colleagues, last Tuesday I stood right at that desk and raised a point of order that we were taking $6 billion right out of the Social Security Trust Fund. The Majority Leader led the fight to take it out.

Today, he is alarmed about the deficit. Today, he is upset about the deficit. Today, he is bemoaning the deficit. But Tuesday he helped create the deficit.

You can't have it both ways. You can't keep spending as if there is no tomorrow and then complain about the deficit.

Let me remind my colleagues, lest they think that suddenly the Government has become so tightfisted we are hurting our people: Over the last 5 years, inflation has been 1.8 percent on a year on average. Average family income has risen by 4.5 percent. And yet the discretionary spending of the Federal Government, driven largely by actions in the Senate—I am not talking about Medicare and Social Security and mandatory programs; I am talking about discretionary spending, something every family understands—at the time when family income was growing by 4.5 percent, discretionary spending, not counting the September 11 emergency funding, was growing by almost 7 percent.

When you look at what that means by program, this is the inflation rate, this red line, and this, by parts of the Government, is how fast the Government has grown as compared to inflation: six times as fast for Labor-HHS; five times as fast for Interior, five times as fast for Treasury. It goes on and on.

Yet the Majority Leader comes to the floor of the Senate today and says: We have a crisis. We need, in essence, to raise taxes—taxes are too low—so we can fund more spending.

Anybody who looks at the facts is going to conclude that not only have higher taxes and higher spending never helped any economy anywhere, but that we already have the higher spending and that we are creating these deficits as we go every day in the Senate.

Finally, I have to respond to this constant effort to try to pit people against each other based on their income. Envy destroyed ancient Athens; it destroyed ancient Rome. It is a dangerous thing for Americans to use, and it is outrageous, unfair, and unjustified.

Look at the people who make up the Senate and look at the families they come from and give me an argument that somehow there is some kind of elitism in America. It won't hold water. And we hear all this talk that these rich people are getting all these tax cuts—the top 1 percent. Senator DASCHLE reminds us they get the $50,000 tax cut. He didn't bother to point out that they are paying $400,000 in taxes. And as far as the low-income people who are not getting tax cuts are concerned, he didn't point out that they are not paying any taxes. Income tax cuts are for taxpayers. We have already been funding programs for nontaxpayers.

We had not had a real tax cut of any significance since 1981. And the reality is that our tax cut made the Tax Code more progressive and not less progressive. Under our tax cut, the top 1 percent of income earners will pay more taxes as a percentage than they pay now.

So I think what we are seeing here is that some of our colleagues are obviously embarrassed about the fact that we are not getting the job done in the Senate, and that the American people want a homeland security bill passed. I don't think changing the subject helps our effort.

In the end, if we are really concerned about those things—and we should be—we ought to go back and adopt a budget. We need to address these concerns the American public has. But it is never going to be enough to say that there is unhappiness in the country. Ultimately, you have to say what your program is to deal with it. The only program I heard today is we need more spending.

When Alan Greenspan was asked before the House Banking Committee what one thing we could do that would help the economy the most, he said: ''Stop spending.'' Yet, last Thursday, we added $6 billion to the deficit, led by the very people who, today—last Thursday, they were for deficits; today, they are against deficits. But you cannot be for something on Tuesday and against it last Thursday and have any credibility in that debate.

So, in the end, we have work to do here. In my opinion, we need to pass a homeland security bill. That is lives today. We have to deal with the Iraq situation. And nothing would make me happier than to do something to help the economy. But that something is not spending and it is not tax increases. In fact, it would be exactly the opposite.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, how much time do we have in the designated time?

The PRESIDING OFFICER. There are 30 minutes remaining.

Mr. LOTT. Mr. President, I yield myself such time as I may consume. I will not take that much time, I am certain.

I feel a need to respond to Senator DASCHLE's comments a few minutes ago.

Before he leaves the Chamber, I want to say how much I appreciate, and the Senate appreciates, the Senator from Texas. He is going to be leaving this year. Maybe that is one of the reasons he is even more articulate than usual. He is saying what he really feels and thinks and is holding nothing back.

As I have said before—and I mean it sincerely—I don't know what we will do without him. We are going to have to create another one, although I am not sure it is possible. On behalf of the taxpayers of this country, and even those who might disagree with him sometimes, I say to the Senator that I appreciate him very much. He has certainly become a legend in this institution. We thank him for all he has done and all we know he is going to do. We hope he is very successful and pays his fair share of the taxes, which we hope to cut as the years go by.

Let me come back to what was said earlier. I think it was summed up in a headline this morning about the fact that Senator DASCHLE was going to make this speech. It says: ''Daschle to Attack Bush Fiscal Policies.'' Unfortunately, that is all it was. It was a litany of complaints, citing certain statistics or certain areas where there might be a concern.

My first reaction is, even if you accept all of that as being a problem—and a lot of it is—what is your plan? What do you plan to do about it? What is the legislative agenda? What do you recommend we pass in the 3 weeks or so we have left here?

The President has had an agenda. The President sent a budget here, but it was all foreordained that we would come to this point this year when we got no budget resolution on the floor and voted on. I asked, why did we not have a budget resolution? We had one for 27, 28 years in a row. Now, all of a sudden, we will not have one. I was told, it is too hard when the Senate is this closely divided. In 2001, when the Senate was divided 50/50, we wound up passing a budget resolution by a wide margin, including, I think, a dozen Democrats who voted with most, if not all, Republicans.

So while every Senator has a right to point out concerns about the economy and the country, I think they ought to be in a position of saying, OK, what are you going to do about it? What is your plan or budget? At the time we had no budget agreement, I made note of the fact that we were going to have some sort of meltdown at the end of the fiscal year; we were not going to have endorsement mechanisms; it was going to be hard to get appropriations bills done because there was no common number agreed to on the total amount. That is what happened.

The other thing that really bothers me is, not only is there no real plan from the Senate, in instance after instance the House passed good legislation and the Senate has not taken it up—over 50 bills. I am not talking about bills to create a ''watermelon recognition day''; I am talking about serious legislation, such as welfare reform. Surely we should have taken the next step to help people get off welfare, get training and education, and get what they need to get into a real job and pay taxes. That is the way you help the people and the economy. But welfare reform, the Senate is not going to act on that. We are still now working on homeland security.

Part of what we need to do for our economy in America is to reassure people that we are going to be safe and we are going to have the protections they need at home. They need to know that life, liberty, and the pursuit of happiness and the opportunity to make a decent living are going to be protected.

We are into the third week. Senator DASCHLE filed cloture to cut off a filibuster. Who is filibustering? It is not this side. There have been not more than three substantive amendments that have been given an opportunity to even be considered. Yet homeland security is languishing here in the Senate. Hopefully, we will get it done this week, or next week, or sometime, so we can get it before we go out.

We have not made the tax cut permanent. We should do that. The ridiculousness of the uncertainty of not knowing whether the tax cuts are going to be applicable in the years to come—when I go around the country, people say: Explain this to me. How can you do such a thing, have a tax cut and not know for sure whether it is going to be in place down the road? We have not done that.

Prescription drugs: We could have had an agreement if we had gotten a prescription drug measure together and debated it and voted on it in the Finance Committee. We could have reported out a bipartisan bill that would have come to the floor and would have passed. We could have a bill probably out of conference now that would help low-income elderly people who do need this help in the future.

So in instance after instance, as Senator GRAMM pointed out, the Senate has not produced any results. There has been no plan. We have done three appropriations bills. We are on the fourth one. Not one bill will go to the President by the end of the fiscal year. I know it is tough because, as majority leader, year after year I had to wrestle with the appropriations bills. We got them done; usually, one by one we got them through the process. In 1996, we actually got them all done, and I think we got them done very close to the end of the fiscal year. It was harder and harder after that.

But how can you complain about what is happening in the economy when you have such uncertainty in the Government—what is going to be available for transportation, education, health and housing? That is all out there with no result.

The only proposal I have heard from some Democrats as to what we should do to be helpful within the economy is to spend more—always add more money, no matter what the issue is. Whenever a proposal is made by the President or by Republicans, Democrats say: We will double you or triple you. They think that is the way you create jobs—more Government spending. The Government is what kills jobs in many instances because of the pressure of the tax burden, regulatory burdens, and all the other problems that come out of having these deficits.

So their only proposal is: Let's spend more. And they tip-toe around it, but they cannot quite bring themselves to say what they want to do is stop the tax cuts; they want tax increases.

We need to be giving more incentives for the economy to grow. Let me talk a bit about what has been done. I will show my colleagues the difference.

It has been very difficult, but we have gotten some of the President's very important agenda through both the Senate and the House or into conference.

One of the things we could do to help the economy and create more jobs is to have increasing trade. We need to open trade. We need to make sure our companies, our farmers, and ranchers have access to markets all over the world in a truly open and free trade arrangement. We did get that through, although I think it took us 7 weeks to get the trade bill done. It was a long stretch of time, once again, because of the way it was brought up.

We also did get an energy bill through the Senate. It is still pending in conference. I think that took us about 4 weeks.

We did pass effective tax relief to help Americans keep more of their money to buy what is needed for their children at the beginning of the school year. In fact, while I had my doubts about it at the time, the rebate that was included in the tax cuts in 2001 started hitting in August, September, and October when we were feeling the effects of not only a recession that started in 2000, but also the aftereffects of what happened on September 11. As

that money got into consumers' hands, they continued to buy what was needed for their families, and they have been the strongest part of the economy during a critical time.

We also had passed—and this is a case where it was bipartisan—tough corporate accountability legislation.

There are some other issues we still could do in the waning hours of this session, but I think to just make speeches and be critical of fiscal policies without offering any alternatives is the height of what we should not be doing in the Senate.

The emperor has no clothes, Mr. President. The leadership has not passed a budget. It has not passed appropriations bills. The Senate has not passed the prescription drug bill. We have not been able to get any traction on homeland security, and we have not even done pension reform. I would like people to know more about what they can count on with regard to putting money in IRAs or maybe taking money out of IRAs for education and what we are going to do in the future in terms of protecting 401(k)s and how stock options are going to be done. But that has not been brought up, and I am not sure it ever will be.

We have the opportunity in the next 3 weeks to do what must be done for our country: We can pass the Defense and military construction appropriations bills to make sure our men and women have what they need to do the job to protect America at home and abroad. We can pass this homeland security bill, create this Department that will bring some focus to our homeland security, and we can help with economic security by controlling spending and by passing such bills out of conference as the energy bill. If we do not deal with the energy needs of this country for the future, if we do not have an energy policy and someday we have a real shortfall, that could have a quick negative effect on our economy.

Those are the issues on which we can work in the next 3 weeks. Of course, we are going to need to stand up to our responsibilities and address the Iraq situation also. I think we will do that. We should focus on those issues we can do, where we can find agreement, and quit being critical without offering any alternatives.

Mr. President, I yield the floor. 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. 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. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. Morning business.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the hour of 1 o'clock having arrived, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from West Virginia.

AMENDMENT NO. 4644

Mr. BYRD. Madam President, for the information of my colleagues, I have no intention of speaking at great length. I hope that other Senators will come to the floor and engage me—not necessarily engage me, but Senators will come to the floor and speak on the amendment either for or against.

I would like to see other Senators who, I am sure, are as concerned about the pell-mell rush to ram the homeland security legislation through both Houses and put it on the President's desk before much time is to be had for debate and for a clear elucidation of the pros and cons with respect to my amendment. And there are other amendments by other Senators waiting. I also have some other amendments.

I do invite other Senators on both sides of the aisle to come to the floor and participate with reference, hopefully, to my amendment.

Yesterday, the administration and the congressional Republican leadership again chastised the Senate for not acting quickly enough to pass the President's homeland security measure.

Said the very able Senate minority leader:

I fear the Senate Democrats are fiddling while Rome has the potential to burn.

''It's being talked to death,'' added White House spokesman, Ari Fleischer.

We are said to have been debating this bill for 3 weeks now, 10 days of debate—3 weeks.

Ten days of debate is not too long, something like 3 weeks. It takes 3 weeks to hatch an egg. I believe the distinguished Senator from Tennessee would agree with me; we are both from the hill country. He is from the hill country of Tennessee, and I am from the hill country of West Virginia. It does not make any difference how much heat you apply to that egg, it still takes at least 3 weeks for that egg to hatch out. If I am wrong in that, I would like my colleague from Tennessee to tell me.

We are talking about something that was hatched by four men, are we not, in the dark subterranean caverns of the White House?

I think a bill of this importance should be debated long enough that the Senate will know and the people will know what we are talking about, what we are about to pass. This is no small piece of legislation. It is not legislation of little moment. It is very important legislation. In my speaking on this measure thus far, I have met with a great deal of apathy. I do not believe much attention is being paid to this bill. I had urged that we not act too fast to have this bill on the President's desk before the August recess or by the time the August recess began, and then there was the idea that we ought to pass it by September 11, the first anniversary of that tragic event which occurred in New York City. And I said, no, we need to take longer. I hoped that Senators would read the bill and that Senators' aides would read the bill and that the people over at the Congressional Reference Service, the legislative people over in the Library of Congress, would have an opportunity to read this bill before we voted on it.

We have been debating this now for a few days. We look ahead to the appropriations bills that must be passed before the end of the fiscal year, the proposed adjournment date of October 6, and the November mid-term elections. It seems to be a long time for deliberation on one bill, but merely having a bill on the floor or on the calendar and actually debating it are two different things. To have the bill before the Senate and to be actually debating it are two different things.

I have my eye further ahead, years ahead, to future Congresses and future generations of Americans. I am trying to look ahead. To my way of thinking, the attention which this bill has received on this floor seems exceedingly brief. We are in the midst of an enormous undertaking. We are talking about enacting a massive reorganization of the Federal bureaucracy, a radical overhaul of our border security and immigration system, and a powerful new intelligence structure that may forever change the way Americans think about their own freedoms. It is a mighty huge responsibility that we are taking on, and we are endeavoring to do it all in one fell swoop: do it now, do it here. We have heard that advertisement on television: Do it now, do it here.

I understand the pressures to move quickly today. We live in an age of instant coffee, instant replays, and instant messages. I suppose the drive for instant legislation is a natural outgrowth. But I prefer the taste of slow brewed coffee. And I like to study the fine print in legislation I am being asked to support.

I would like to know, for instance, just exactly how many Federal workers will be employed at this new Department. I saw a recent article in The

Washington Post that mentioned that the new Transportation Security Administration was slated to employ 28,000 Federal screeners when it was first created by Congress just last November. But, its Inspector General has determined that the agency will actually need 63,000 screeners—37,000 employees more than was originally anticipated. Wow. In less than a year, the size of that new agency has more than doubled.

I would like to know, since the Transportation Security Administration is supposed to be moved into the new Homeland Security Department, are these 63,000 screeners part of the 170,000 employees that we keep hearing will make up the new Department?

I would like to know if any of them are from West Virginia, for example. I would think that other Senators would want to know if these Federal employees will be from their States. After all, we are being asked to trim back their worker protections. As for that matter, I would like to know just how many of the total number of affected Federal workers are from my State. Exactly how many are from each State? I think every Senator has a legitimate interest in knowing the answer to that and many other questions.

Since we have seen the Transportation Security Agency employment figures rise so rapidly, I would be interested in learning if we can bank on that figure of 170,000 employees in the new Department or if that is just a rough ''guesstimate.''

While we are at it, I would like to know just exactly why these particular 28 Federal agencies and offices were selected, out of the more than 100 that have homeland security functions, to be part of this grand new Department. The administration crafted its homeland security plan in secret, so the Congress has little knowledge of why the President chose these 28 agencies and offices to be transferred. Why these offices? Why these agencies? Why not other agencies?

The Lieberman bill, like the House-passed bill, proposes to transfer to the Department the same 28 agencies and offices outlined in the President's plan. But the Governmental Affairs Committee has not developed any sort of criteria for why these agencies were chosen to be moved, other than the fact that they were identified in the President's proposal. Certainly, the Congress needs a better reason than that for transferring 28 agencies and offices and 170,000 employees.

I considered the possibility that the answer to my question might lie in the definition of ''homeland security'' but then I do not believe I found in the Lieberman substitute bill a definition of homeland security. It may be there, but I am not sure. I have been studying this Lieberman bill and the House bill. The Lieberman bill is an improvement over the House bill. It is leap years ahead of the House bill, but I cannot remember having found a definition of homeland security in the Lieberman bill.

Thinking, by the way, that such a definition was a pretty important thing to have in a piece of landmark legislation intended to address one of our Nation's most pressing challenges, I included a definition in my amendment.

I would be interested to know why some of the Assistant Secretaries called for in this bill have no defined functions. Under Title I, the Lieberman bill creates five assistant secretary positions within the new Department, all of whom would have to be confirmed by the Senate, but grants the President the authority to define the functions and responsibilities of these assistant secretary positions when the President submits his appointees to the Senate for confirmation. Once confirmed by the Senate, the Lieberman plan authorizes the Homeland Security Secretary to assign those functions that the Secretary deems appropriate.

The Congress should understand how the President plans to utilize these assistant secretaries before it creates their positions. What's more, it should define those responsibilities and functions in statute. Under the Lieberman plan, the President can broadly define the role of an assistant secretary, outside of the law, and, after the appointee has been confirmed by the Senate, the Secretary can alter that role, without regard to the intent of the Congress.

I would like to inquire for workers in the chemical industry and the trucking industry just exactly who is going to determine how they are supposed to deal with hazardous materials. Will the Transportation Department still make rules for trucking hazardous cargo or will all that now fall under the purview of the new Department? Are chemical plants to be subject to the powers at Homeland Security or the Environmental Protection Agency or will all of these regulatory matters be sorted out in arm-wrestling matches?

I do not believe that we have taken enough care in this bill to clearly define what we are authorizing the executive to do, and that is exactly how the President would have it. The administration wants us to be careless in our legislation so it can be reckless in its implementation. The administration does not want to be constrained by a specific plan, whether crafted in the White House or in the Congress, because the administration does not want to be pinned down on the details of its policies or the specifics of its actions.

A favorite piece of reading material for this administration apparently is ''Gulliver's Travels,'' where we read about the Lilliputians. That is a great piece of literature; I have liked it over the years. But we have heard various Secretaries in this administration and other high officials in this administration indicate that they are very fretful, they are very irritated by the fact they are being asked to abide by certain rules. These have been longstanding rules. So the administration does not want to be tied down by any rules. We have heard them tell the story of the Lilliputians a number of times. So they do not want to be pinned down. This administration does not want to be pinned down by any rules, not pinned down on the details of its policies or the specifics of its actions.

President Bush has pressured Congress to act quickly on his proposal, insisting that because homeland security has become his top priority for the Federal Government, Congress must immediately provide him the resources and flexibility that he is demanding.

The House of Representatives passed legislation approving most of the proposal only 38 days after he submitted it to Congress. The House of Representatives passed the legislation in 2 days. Why, it would take longer than that in some communities in this Congress, some cities in this country. It would take longer than that to get a sewage permit. It would take longer than 2 days to get a sewage permit in some parts of the country. And perhaps for good reason. They passed a piece of legislation such as this with its far-reaching ramifications in 2 days in the other body.

I cannot see how either House of Congress can properly consider the merits of a new Department of Government and the transfer of 28 Federal agencies in 1 month's time, especially when the stakes are so high. But here we are with a bill before us; the clock is ticking.

I know Chairman LIEBERMAN and his committee have spent many hours on this bill. They have far more expertise on the subject matter than I have. I am not a member of that committee. I am not a member of any committee that has jurisdiction over this subject matter per se. Senator STEVENS and I were very concerned about some of the language in the House bill, certainly, in his administration proposal, about what would happen to the legislative process, how the constitutional process, the power of the purse, was being changed by the proposed legislation. So Senator STEVENS and I wrote to Senator LIEBERMAN and to Senator THOMPSON and asked that change be made in their legislation before they reported it to protect the legislative process as we have known it for over two centuries.

They worked hard. Senator LIEBERMAN and Senator THOMPSON worked very hard to craft the best bill they could craft under the circumstances. They have made a number of important improvements to the bill passed by the House. I thank the committee again, as I have thanked the committee before on several occasions, and its staff, for their efforts. But the stakes are so high and I believe we would be better off if we took further opportunities to look at the details, to study the details, to talk about ways to fill in the details. Let us remember with this legislation the Senate will be shaping not only the mission and the

structure of the new Department but also the relationship that Congress will have with the Department during its lengthy transition period and throughout the process of making and implementing homeland security policy.

This legislation is going to be around quite a long time, in all likelihood, and the protections that I am interested in having in this legislation are protections for the rainy day, as well as for the day of sunshine, protections for our vital processes. These are the details that will be with us a long time. Whether it is a Democratic administration or a Republican administration, I should think we would all want to see what is best for the country, what is best for our children and grandchildren. If we are going to pass something, let it be well thought out, knowing, as I do know, that this legislation is going to be around for a long time.

We have heard that the war on terrorism is going to be a long time in its duration. I don't doubt that. We have spent nearly $20 billion in Afghanistan thus far, and we don't know whether Bin Laden is alive or dead. So this will be around for a long time.

This President and his administration, hurrying today to just have us turn this matter over to them, may not be around. Who knows. This President may be here 2 more years after this year or he may be here 6 more years or he may be here 8 more years. Who knows. Only God knows. There may be a Democratic President, a Democratic administration, there may be a Democratic House at some point. So I think we should not act with our blinders on and act only for partisan reasons because at the moment there is a Republican administration in the White House. We must not hurry this through just to get a bill through, to meet a certain date.

As Senator LIEBERMAN and I and others have said, we need to do it right. That is what I assume is the responsibility of every Senator, to do what he can to improve this bill, if it can be improved. I have never seen a bill that came to the Senate floor that couldn't be improved. Every appropriations bill that was reported to the Senate floor by my Appropriations Committee, of which I am the chairman, is always subject to amendments, and many amendments are offered and acted upon favorably. So we have room for improvement.

I do not come here as an adversary of Senator LIEBERMAN. I do not think my amendment is adversarial to his bill. I think that, even though his bill is a great improvement over the House bill, there is room for further improvement. That is not saying anything I think anyone would be offended by on his committee. I have heard of no such offense.

That is our job here, to do the best we can to come out at the end of the day with the finest product, the best product this Senate is capable of. We are talking about homeland security, the security of the people in this country. We must recognize that there is real work to be done by the Senate to make sure that all of the agencies are moved into the Department and that it is all done in a responsible way.

I understand the eagerness to pass a strong bill in order to make a strong statement. We all want to assure the public that we are acting decisively to secure the public's safety. No one wants to be portrayed as standing in the way of greater security on American soil. President Bush would have us believe he can simply create this Department out of thin air, as if by magic. It wasn't too long ago that this President and the Director of Homeland Security, Mr. Ridge, were saying: We don't need another Department. Why have another Department? Why have another Department?

Well, that is a long story. We went about, up the hill and down the hill, on the business of having the Director of Homeland Security, Mr. Ridge, come up before the Senate Appropriations Committee and testify on the budget. And of course the administration put its foot down hard. They didn't want that done. So we have sought that in that Appropriations Committee, Mr. STEVENS and I—we have on one occasion put language into an appropriations bill requiring the Director of Homeland Security to be confirmed by the Senate.

When the administration saw that Mack truck coming down the road—that bill was brought to the Senate, and it passed by a majority, a great majority; 71 Senators voted for it. Not one Senator objected to that language. Not one Senator offered an amendment to strike that language. So the administration saw that Mack truck coming and, lo and behold, the administration decided: Oh, we have to get in front of that wave. And then they came up with this marvelous piece of brainwork. It came from just four men in the bowels of the White House. They came up with this marvelous piece of magic. And now they want it passed in a hurry to create this Department of Homeland Security—which, not too long ago, as I say, the President did not seem to want, to create a Homeland Security Department, nor did Mr. Ridge.

Well, a little wave of his magic wand, a few magic words to the press, and poof, the President pulls a new Department out of his hat.

That is the old vaudeville stunt, a new rabbit out of the hat. Don't watch my right hand, watch my left hand. Watch what my left hand is doing. Don't pay any attention to my right hand. All of a sudden, he pulls a rabbit out of the hat.

The President pulls a new department out of his hat. But after the President's sleight of hand is over and the smoke clears from the stage, the task of replacing political magic with real management will begin.

I have often urged my colleagues to look to history as a guide to the future. There is much to be learned from the successes and the failures of our forefathers and we would do well to take the countenance of the past. I realize that everybody shares my love of history or see the past's connection with today and I am disappointed. But I am disconcerted when we fail to learn from our own experiences.

Last October, nearly half the Senate was thrown into disarray as the Hart Building was closed due to anthrax contamination.

I was shut out of my office. My staff were shut out of my office in the Hart Building. Many Senators were shut out of their offices, barred from our mainframes, our fax machines, our files. Our staffs were relocated, with new phones, new computers, new fax machines. Staff members couldn't reach each other, let alone our constituents. We scrambled to find ways to ensure a continuation of constituent services.

We saw how difficult it was to set up new quarters and make our offices functional again. But this bill before us is our anthrax experience many times over. And this time, the work that will be interrupted may be work that would prevent the loss of thousands more lives in another terrorist attack. I think it is worth the time to ensure that this agency is formed in the right way, from the ground up. We should take the time to work out the kinks before launching it.

Like so many government reorganizations before it, this legislation lumps together a number of disparate agencies and slaps a new sign across them. It does nothing to fill in the details of a very sketchy plan. It does nothing to resolve the inevitable problems that lie ahead. It is an opportunity to get off the hook easily. Pass something; claim the credit for passing the legislation in the upcoming election. That is probably part of the idea—claim credit for that. Go out to the American people and say: The Senate acted. We worked out a new plan. But it does nothing to resolve the inevitable problems that lie ahead. But I, for one, think we owe more to the American people than that. I think we owe more to them than that.

If the aim here is only to speed implementation of homeland security matters, let us do something to ensure that this administration and the Congress are not allowed to let development of the Department languish.

Most agree that we should act now to set the wheels in motion for a new Department, but we should not kid ourselves about what we are doing with this legislation.

The President and the Secretary of Homeland Security—if we pass the House bill—certainly will have the whole kit and caboodle. Congress will just walk off to the sideline. And, to a certain extent, the same is true with the bill that has been adopted by the committee chaired so ably by Mr. LIEBERMAN.

The President and the Secretary of Homeland Security will have to transfer 28 agencies—some say 22, some say 30—create 6 new directorates, and coordinate information and resources from countless Federal, State, and local agencies and private corporations. The administration expects Congress to hand over a blank check. They may do that in some States. Maybe the President is accustomed to having it that way in Texas. I do not know. I suppose there have been Governors in West Virginia who believed they might be entitled to a blank check on something. But we are not talking about something at the State level. This is the Federal level, and it is the Federal Constitution to which we have to pay very close attention.

The Administration expects Congress to hand over a blank check to craft this Department without additional guidance during implementation.

This expectation is not only unrealistic, it is irresponsible.

If the Senate adopts the President's proposal without making further efforts to improve it, we will have copped out! If this Senate is not willing to put in the time and attention that this new Department undoubtedly requires, I have to wonder whether we are really serious about investing responsibly in a long-term federal response to homeland security threats at all. I hope this is not all just for show!

Is that what it is? Is it all for show? Just rush the bill through so that we can say to the voters: Oh, the Senate has passed the homeland security bill. I hope it is not all for show.

The Senate must take a responsible approach toward enacting the President's proposal. If the Department of Homeland Security is worth doing, it is worth doing right, and both Houses of Congress must act deliberately to see that this Department gets up and running properly and expeditiously.

To ensure that all of these agencies and Federal workers are being moved to the right places for the right reasons, we will have to set the stage for our work after this bill is enacted. If we give the President blanket authority to transfer and reorganize these agencies without further action by Congress, the Department's transition will certainly suffer under a clumsy, trial-and-error approach that has been the death knell for so many other important government efforts before it. It will take a lot of work to get this Department where it needs to be, and Congress should not buy in to the empty promises of a one-time fix for all of the federal government's homeland security functions. We must sign up for the long haul now.

Any good carpenter knows that he will save himself a lot of headaches if he takes the time to measure twice and cut once. But in the midst of this enormous building project we have undertaken to construct a new department of government, no one is bothering to make even a rough measure of the actions we are taking.

Even if we wanted to do so, we would have nothing to measure against, because the President has not given us any workable blueprints laying out the architectural details of the Homeland Security Department. The President just shouts at us to keep building, because he wants a home for his secret war as soon as possible.

And by including all of these hurried agency transfers in his proposal, President Bush is trying to move in the furniture into this new home before he has even finished putting a roof over the Department. Given his success in pushing through his proposal, this may truly be the house that George built, and, if we don't hold our own feet to the flames, Congress will spend years making repairs to this hastily designed and poorly built structure. If his commitment to protecting homeland security is not strong enough to endure congressional involvement and public scrutiny, then our security is in serious jeopardy. And if the President's policies are not sound enough to survive the constitutional process, then we would probably be more secure without them.

Securing the safety of the American people in their own homeland will be the most important challenge of our time, and it will require responsible leadership both from the White House and from the Congress. Such leadership does not consist of hollow political solutions and public relations campaigns. When the lives of our citizens are on the line, we have a duty to rise above public approval polls and make the hard decisions about how best to protect the country's long-term interests. The President is asking us to establish the Department of Homeland Security without making these decisions, and without any clear evidence from the White House that he is willing to make the hard decisions under the processes required by the Constitution.

Congress must require of the President and of itself more than a single, open-ended plan for a new department with broad authority and a vague mission. Congress cannot allow the President to conceal his failure to produce a comprehensive homeland security strategy behind the smoke and mirrors of ''managerial flexibility.'' If we are serious about formulating a real response to these new threats, we must press ahead to fill in all the details.

The amendment that I will be offering provides a process by which the Congress remains involved in implementation of the Department.

With the Byrd amendment, the Lieberman bill would immediately create the superstructure for a new Homeland Security Department, including the executive positions and directorates outlined in Title I of the Lieberman substitute but require additional legislation to transfer the agencies, functions, and employees to the new Department.

The amendment that I shall offer would establish a process that would allow the Congress to act within the same implementation time frame—13 months—outlined by the House-passed bill and the Lieberman substitute.

Beginning on February 3, 2003, the Homeland Security Secretary would submit recommendations for legislation to the Congress, which would be referred to the Governmental Affairs Committee in the Senate and the Government Reform Committee in the House, to transfer agencies, functions, and employees to the Directorate of Border and Transportation Protection; 120 days later, the Homeland Security Secretary would submit recommendations for legislation to transfer functions and agencies into the Directorate of Intelligence and Directorate of Critical Infrastructure Protection; 120 days later, the Homeland Security Secretary will submit recommendations for legislation to transfer agencies and functions to the Directorate of Emergency Preparedness and Response and the Directorate of Science and Technology.

The Byrd amendment gives Congress additional opportunities to work through the details about worker protections, civil liberties, privacy, secrecy, and about which agencies and functions should be transferred to the new Department.

Additionally, the Byrd amendment would give Congress the opportunity to gauge and modify how the new Department is being implemented, while it drafts legislation to transfer additional functions and agencies. The Byrd amendment would provide Congress with additional means to head off problems that traditionally plague and delay massive reorganizations.

I have defined as well as I could in this time my amendment.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 4644.

Mr. BYRD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not a sufficient second.

The Senator from West Virginia.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I rise to speak against the amendment which the distinguished Senator from West Virginia has offered. I do so, of

course, with great respect for him personally, for his record of service to our country, for his record of leadership in the Senate, and for all that this Senator—and I would say every Senator—learns from him just about every day here.

I rise to speak against the amendment. I am going to try to speak clearly about why I feel so strongly against this amendment, but I certainly hope the Senator from West Virginia will understand, and colleagues as well, that I do it with great respect.

Senator BYRD has been good enough to express his appreciation for many parts of the amendment which is the proposal that emerged from the Senate Governmental Affairs Committee, which I am privileged to chair, by a 12-to-5 bipartisan vote at the end of July. I appreciate those kind words.

But I must say that though Senator BYRD has said his intentions are not adversarial to the committee-reported proposal for a Department of Homeland Security, it seems to me that adoption of Senator BYRD's amendment would eviscerate our proposal. It would, as he has described it, create a superstructure, a kind of house—create the exterior of the house—but there would not be much in the house. There might be an attic, with the Secretary and some of the executives up there, but nothing underneath for at least a year, and probably well beyond that, to better protect the security of the American people here at home.

So this amendment, though it preserves the superstructure, strikes at the heart of what the Senate Governmental Affairs Committee has been working to bring forth for well over a year now.

We began our investigations on the problem of homeland security before September 11 of last year. We held hearings on matters related to homeland security before September 11. In fact, we had a hearing scheduled for September 12 on one aspect of homeland security, and we went forward with it as best we could. Half the witnesses could not make it to Washington.

We labored, in the weeks and months after September 11, holding 18 different hearings. In October, Senator SPECTER and I, introduced—in October of 2001, almost a year ago—legislation to create a Department of Homeland Security. In fairness, that legislation was based, in good part, on the work of a citizens' commission headed by our former colleagues Gary Hart and Warren Rudman. And they had been working on it since the early part of 2000.

In May of this year, our committee reported that bill that Senator SPECTER and I had introduced, together with a companion bill Senator GRAHAM had introduced, amended and approved by the committee itself by a 9-to-7 vote—unfortunately, a vote on partisan lines. All the Democratic members voted for the bill. All the Republican members, at that time, voted against it.

In June of this year—June 6, I believe it was—President Bush, after all the months before then in which the President and his administration had said an Office of Homeland Security, as filled by Governor Ridge, was enough to deal with the new challenges of homeland security—changed his mind. And I admire him for that, and I appreciate that. And I think he reached a conclusion that it would take more than an office—without statutory power, without budget authority—to meet the challenge that terrorists placed on his shoulders, and ours, to protect the security of the American people.

My friend and distinguished colleague from West Virginia said the President pulled this bill out of a hat. Well, if he pulled it out of a hat, it was a hat that belonged to the Senate Governmental Affairs Committee because so much of the proposal that the President ultimately made is exactly the same as the bill that was reported out of our committee in May.

That is why I have said, all along, that probably 90 percent of the various proposals here—the committee proposal, the President's proposal—are in agreement with one another. And we are arguing over a small number of issues, not insignificant issues, but relatively small in number compared to all we agree on. We worked to take some of the ideas the President had and added them to our bill. Still, it is mostly the same bill as our committee reported out at the end of May.

Then at the end of July—July 24 and 25—we had two very productive, extensive days of committee deliberation, a so-called markup, in which we were quite open to suggestions that had been made by Members of the Senate. I myself consulted with the various chairmen of relevant committees. Senator THOMPSON spoke to the ranking minority members, ranking Republicans on the committees. We built a better package and reported it out on July 25. Not perfect. As the Senator from West Virginia quite accurately says, no legislation that is brought before this Senate is perfect; it always can stand amendment, including this proposal.

But I must say again, with all respect, that the Byrd amendment would basically pull out of the bill most of the hard work our committee has done. It would again frame questions that our committee has worked now almost a year to answer and has presented to the Senate our best considered judgment about what the answers to those questions should be. And the basic question is, How can we best protect the security of the American people after September 11 against terrorism and threats to their security?

Senator BYRD's amendment reminds me of those board games I played as a child, and sometimes occasionally still do with children or grandchildren, where, when you hit a certain box, they tell you to go back to the beginning and start all over again. That is what adoption of this amendment would do. It would obviate all the work we have done. It would essentially say that the answers we came up with were not adequate. And it would establish a system where the administration, over the next year, would basically try to fill a house that is now empty in the Byrd amendment. Underneath the attic, where the Secretary and a few of the executives are, there is nothing to protect the security of the American people.

The administration would be required to submit—beginning early in February of next year, and every 4 months thereafter—proposals for filling in that structure. But the requirements of the Byrd amendment say that not earlier than February 3 of next year, and succeeding 120 days thereafter, would the administration be able to submit the inner workings of the Department. And there is no clear time limit as to when this Department would be up and running.

I gather that the Senator has modified or will modify his amendment to say that Congress must act on the administration's proposals for what will happen in five of the six divisions of the Department by 13 months after the effective date of the underlying legislation—that date chosen, I presume, 13 months, because our legislation says that the full Department must be up and running 13 months after the effective date.

The passage of the Byrd amendment would give the American people no guarantee that they would have a Department of Homeland Security, protecting them better than we protected them on September 11, in any time that is measurable.

I have a personal sense of urgency. Senator BYRD has spoken to it. We want to better protect the security of the American people. This is an important assignment we have taken on to create this Department. But this is an assignment that comes with a sense of urgency.

The terrorists are out there. We read every day about it, either about apprehensions or arrests of terrorists in various parts of the world. As I have said before on the floor, we defeated the Taliban in Afghanistan. We disrupted the al-Qaida bases there. But so many of them fled, and they are out there. They are not an army that we can see as a conventional army on battlefields. They are not in ships that we can observe at sea. They are hiding in the shadows of this world, in foreign countries, in our country. That is why I say that every day we go without a better organization of the various critical departments that are supposed to be protecting the homeland security of the American people is a day of greater danger for the people.

It is with that sense of urgency that our committee has brought forward our proposal. And this amendment, if passed, would take the heart out of the

proposal and delay its implementation to a day that cannot be measured. That is wrong. I oppose the amendment with the greatest respect but with the greatest sincerity and intensity.

I ask my colleagues, any of whom are thinking about voting for this amendment, to explain on the floor and to their constituents how they could support this amendment and still say they are committed to the creation of a Department of Homeland Security with a sense of urgency that the reality of the terrorist threat requires.

This amendment would establish a Department of Homeland Security and a Secretary with the missions and responsibilities virtually untouched. It would also retain the basic administrative structure of the Department, as the Governmental Affairs Committee proposal has proposed.

The amendment also creates the same six directorates as in our bill, each to be headed by an Under Secretary. But as I have said, there is nothing else in this amendment within five of those six directorates. The one exception is the Immigration and Naturalization Service directorate. There are no responsibilities, no mission statements effectively, no transferred agencies.

The amendment does call, as I have said, for the Secretary of the new Department to submit to Congress, over the course of the next year, a series of legislative proposals to further the mission of the Department, including recommendations for the transfer of ''authorities, functions, personnel, assets, agencies, or entities into the various directorates.''

These proposals to be provided to the Congress by the Secretary would be responsible for filling in the house. That includes not only the precise list of agencies and programs to be transferred to the new Department but an enumeration of all the responsibilities of the new Department, including the fundamental policy decisions about the Department's most basic missions.

I have talked about the deadline for Congress to act. It is unusual, I say with some humility, for one Congress to attempt to bind another Congress to act. Is it enforceable? Can we have any sense of assurance, if the Byrd amendment passed, that Congress would act on the various proposals of the President 13 months after the effective day, which would probably take us to 2004? I don't see that in this amendment. Remember, in the underlying committee proposal, the Department is created. The effective date of the legislation begins 30 days after it is signed and becomes effective. The Department begins to take shape. The administration then has 12 months after that to complete the full implementation of the new Department, to bring all the 170,000 employees together to get the Department up and running, to overcome the inefficiencies, to bridge the gaps that exist, to create the new divisions of this Department that we desperately need.

As to intelligence, for instance, there is still no place in our Federal Government where all the proverbial dots are connected from law enforcement and intelligence. That is an urgent need we have.

If the committee's proposal is adopted, the new Secretary of Homeland Security would be authorized to do that immediately. All we say is by the expiration of 12 months from the effective date of the legislation; therefore, 13 months after the President's signature, all of this would be completed.

Set that aside from what would happen in the case of the Byrd amendment, in which the only guarantee we have is essentially a hope that Congress will have acted on the administration's proposals 13 months after the Department is created. That is just not enough.

This is no time for us to replace the carefully considered bipartisan legislation that emerged from our committee with this structure without content that may never turn into a genuine Homeland Security Department, with the power, the personnel, and the resources it needs to protect the American people from terrorism.

Mr. BYRD. Madam President, I did not want to interrupt the distinguished Senator. I will be happy to wait until he finishes his statement, but whenever he is ready to be interrupted, I would like to get his attention.

Mr. LIEBERMAN. I thank the Senator from West Virginia. I would like to complete my statement. Then I will be glad to respond to any comments or questions he has.

Let me make three general points about what troubles me about the amendment.

First, the amendment destroys what might be called the holistic design of a new Department. By that I mean the whole will be greater than the sum of its parts. Indeed, since the very beginning, the entire purpose of formulating this Department has been to create a cohesive and unified organization in which all the pieces fit together tightly with all the other pieces. We have strived to bring to our legislation a global understanding of the capabilities our Government has and the capabilities it currently lacks. We have thought carefully about the interrelationships of the different agencies and directorates that will make up the Department.

The result, I am confident, is a Department in which the six constituent divisions strengthen one another such that the whole is greater than the sum of the parts. Splitting this Department into a number of separate pieces that will be created in organizational isolation from each other will undercut the wide angle focus that is necessary for us to best meet the terrorist threat.

We will revert to essentially creating a number of different divisions that are linked to one another in name but not necessarily in function. In the process, I fear the Byrd amendment will threaten one of the core purposes of a single Department of Homeland Security under a unified chain of command; that is, namely, to leverage the benefits of bringing together these 28 different agencies and programs in a synergy, in a way that the whole is greater than the sum of the parts.

Pulling the pieces apart and rebuilding them will lose that understanding of our capabilities. Just think about the pieces of the new Department that will need to work together every day. I cite the intelligence directorate again. It is going to communicate with the directorate on critical infrastructure protection and on border transportation security, and it is going to need to develop threat assessment and threat dissemination systems and protocols.

The directorate on science and technology will need to learn from the directorate on emergency preparedness and response precisely what technologies are required at the Federal and local level, and then we will have to develop an action plan to deploy those technologies. Every directorate in the organization will have to draw on the science and technology directorate's expertise for critical analysis and decisionmaking regarding scientific or technical issues.

This Department should work like a carefully crafted machine with interlocking gears. If we conceive of it as six separate gears turning in isolation from one another, we are going to drastically diminish its effectiveness. I fear the process that the Byrd amendment would set up will do just that.

Second, I know there was a concern expressed on the floor and off the floor that the committee's proposal for a new Department of Homeland Security fails to put in place adequate checks and balances on executive authority. I disagree. Those checks and balances and the desirability of them in our system of government were very much in our mind as we proceeded with this legislation. In fact, we gained great insight and assistance from Members of the Senate as we crafted this legislation, particularly the senior Senators from West Virginia and Alaska who brought not only their considerable experience but their love for the Senate and devotion to the concept of checks and balances, which assisted us in crafting our amendment.

So we have gone to great lengths to ensure that the Congress will remain actively engaged in the life of this Department—not just in the traditional way in which Congress, in some senses, always has the last word, which is through the appropriations process, but through the transition process as this legislation becomes law. We have very important work to do with the executive branch and the transition process of this new Department. We have to make sure the reorganization is proceeding apace. We have to make further changes in law, if and when such changes are needed. We have to finance

the new Department, consistent with its needs, as determined in the first instance by the Appropriations Committees of both bodies and, of course, by the membership of both bodies. And we have to make sure that critical, nonhomeland security functions of the constituent agencies don't fall through the bureaucratic cracks.

That is why we have specifically required that the administration come back to Congress at least every 6 months during the reorganization process to update us and the American people on the progress being made and, if necessary, to request that we make additional amendments and improvements. The committee members are well aware of the complexity and the enormity of what we are proposing. So these required reports during the reorganization process should give Congress an opportunity—our committee first and then Congress—to assess the progress and make necessary adjustments.

The important point here is to get started. No one—least of all me—thinks this is going to be a perfect proposal. It will be a work in progress. To make it progress as rapidly and perfectly as we want, we are going to have to work together—Executive and Congress—in making that so. Our interest in guaranteeing proactive congressional oversight is spelled out in even more detail in our proposal.

Contrary to the President's proposal, which originally sought to give the executive branch unchecked authority to reorganize the constituent agencies within the new Department and unprecedented power to move between 3 and 5 percent of funds appropriated to the constituent agencies of this Department, we have taken a very different path and rejected those requests from the administration. We will insist on the accountability of the appropriations process. We understand the Constitution gives Congress—and only Congress—the responsibility to appropriate the expenditure of the public's money.

So we have specifically rejected the administration's calls for broad, unchecked power to move public money around without the consent of Congress. We have said that while the administration can reorganize agencies within the new Department to the extent that it does not conflict with existing law, if the administration wants to change existing law, contrary to its proposal originally, we require it to come back to us for approval to do that. Congress cannot delegate to the Executive the authority to obviate statutes that are on our books without the consent of Congress. That, of course, is an affirmation of the importance of ongoing congressional involvement in an approval of the reorganization process.

I know Senator BYRD is concerned about the speed with which this is moving forward. I believe this is not moving forward near rapidly enough. I know he has a historic and proud concern about Congress yielding too much authority to the executive branch, and I share that concern. My strong reassurance to him, and to the other Members of the Senate, is that the Senate Governmental Affairs Committee proposal does what Congress has done since its creation, since its beginning, which is to legislate, create a new Department, but not to give that Department unchecked authority to go forward but to require it to come back for appropriations and require it to live within the law. And if it decides, as it goes forward, that it needs to alter the law, then, of course, it must come back to us and not be allowed to waive laws and repeal them on its own, as it originally asked to do. Congress will remain, under our proposal—a careful, measured proposal—an active and aggressive board of directors overseeing this merger every step of the way.

Third, this amendment is based on the faulty assumption that we have written our legislation hastily, without due consideration of exactly how the Department ought to be structured. As I said at the outset, the fact is we have been working for nearly a year and, in some cases more than a year, to determine what this Department should look like, and to do everything humanly possible to prevent another September 11-type attack.

We have studied these issues exhaustively. We have considered the implications rigorously, and we have written this legislation carefully. Now, any Member of the Senate has the right, of course, to come out and say that a given part of our proposal is not quite right and not what it should be, and that is what the amendment process is all about.

Of course, there have been many amendments filed that go exactly to that point. What Senator BYRD's amendment does is to remove the fruits—all the fruits pretty much—from the tree, except the very few at the top, that we have nourished and worked so hard to cultivate over this year.

(Mrs. CLINTON assumed the Chair.)

Mr. LIEBERMAN. Madam President, long before September 11, our committee had been interested in homeland security. In July of 2001, we held a hearing on FEMA's role on managing bioterrorist attacks. In July 2001, we had been studying whether our Government was adequately organized to protect critical infrastructure and, unrelated to the attacks, had scheduled a hearing on that subject for September 12. The day after the planes crashed into the Pentagon, the World Trade Center Towers and the field in Pennsylvania, that hearing was held in a context we never could have imagined.

About a year ago, we began crafting the precursor of the legislation we are now considering. On October 11 of last year, Senator SPECTER and I introduced our bill to create a Cabinet-level Homeland Security Department. In May, we merged it with strong legislation that had been proposed in September by Senator GRAHAM of Florida. And on May 22, we reported that legislation out of committee by a vote of 9 to 7.

Since the President announced his support for a Department of Homeland Security on June 6, we have worked closely and collaboratively with committee chairs and ranking members, with fellow members of the Governmental Affairs Committee without regard to party, with experts in the field, and with the White House.

We have incorporated bipartisan proposals for restructuring the INS and reforming the civil service system—the first proposed by Senators KENNEDY and BROWNBACK; the second proposed by Senators AKAKA and VOINOVICH—drawing on years of effort to build a consensus on those key issues.

All told, we held in our committee 18 hearings and heard from 85 witnesses on these issues. Every step of the way, we have been open to and accepted sensible compromises and incorporated new ideas recommended by people inside and outside the committee based on merits, based on the purpose of this legislation, based on the urgency post-September 11 of protecting the security of the American people.

The bill that emerged from this process earned the strong bipartisan support of the Governmental Affairs Committee. In 2 days of work on July 24 and 25, we debated the legislation, we incorporated many amendments, and we endorsed it by a bipartisan vote of 12 to 5.

In essence, this legislation—its core elements anyway—have now been approved twice by the Governmental Affairs Committee. That is not a hasty process. That is work that has been done by the committee over a long period of time.

I must say, as I consider Senator BYRD's amendment, I am reacting as a proud chairman, one who has worked very hard with members of both parties in committee to bring forth this legislation. It is not perfect. It is open to amendment. Let the body have its will. But I ask Senator BYRD and any other Member of the Senate, chairman or ranking member, to think how they would react if, after having worked so hard on a piece of legislation that they believe is urgently needed in the interest of the security of the American people, they were faced with an amendment that took most of it out. It would be as if an appropriations subcommittee bill came to the floor and a Senator got up and kept the sum total but switched all the money around or, more relevant, said: A little bit at the top can be spent; the rest cannot be spent until the administration comes back next year and tells us how they want to spend it.

If I am feeling deeply about this amendment, with all respect to its sponsor, it is because I feel deeply about the need for a Department of

Homeland Security as soon as possible. Each directorate has taken shape over time as we proposed them to respond to the best evidence of what will work from experts and from colleagues.

We began with a model that closely resembled what was proposed in the Hart-Rudman Commission on National Security in the 21st century, which itself was the product of 3 years of work and the insight of many of the top national security minds in our Nation. That was our first framework.

Then in the months that followed, we drew on the lessons learned from our hearings and from countless other reports and hearings and from additional hours of staff research on these issues to refine and improve the initial vision of the Department. We collaborated closely with our colleagues on both sides of the aisle. And since June, when President Bush announced his support for this Department, we have worked with the White House in incorporating parts of its ideas into this proposal.

Each directorate evolved as we tried to bring together just the right agencies and offices needed to counter the terrorist threat at home. That is why I say that the Byrd amendment is like a children's board game: When you hit a certain box, it says: Go back to the beginning and start again.

That is awfully frustrating for Senator THOMPSON and me and other members of our committee who have worked so hard to put these directorates together.

The directorate on border and transportation security, for example, started out with a blueprint very similar to that recommended by the Hart-Rudman Commission. It included the Coast Guard, Customs, and the Border Patrol. But over time, in our committee, we came to be educated and to a conclusion that the original proposal was not adequate, was not complete.

We heard from experts that the Animal and Plant Health Inspection Services, in the U.S. Department of Agriculture, had a critical role at ports and borders and ought to be integrated with the other agencies. So we moved APHIS into the directorate.

We were persuaded the entire INS should also be brought over to ensure ongoing coordination with all immigration and border activities and between immigration enforcement and services. So we brought INS into the new Department while subjecting it to the substantial bipartisan restructuring it desperately needed, according to the Kennedy-Brownback legislation, and giving it accountability—because most everybody agrees that the INS is an agency that is not functioning as we want it to—by placing it in its own directorate with direct access to the Secretary and the Under Secretary of the new Department.

As another example, the directorate on emergency preparedness and response began, again, in accordance with the Hart-Rudman recommendations, with FEMA at its core. But over time, the directorate was expanded to include other vital offices with a central role in preparing for and responding to potential terrorist attacks: the Select Agent Registration Enforcement Program, which plays a central role in the wake of public health emergencies; the Strategic National Stockpile, the Office of Domestic Preparedness from the Department of Justice, the Office of Emergency Preparedness from the Department of Health and Human Services, and so on. Each addition was carefully considered and made in specific response to concerns raised by experts in the field to fill a demonstrated need in the new Department.

Adoption of the Byrd amendment would extinguish all of that work and say: Let's start again.

Consider the evolution of our new independent directorate of intelligence. We appreciated the attention paid to intelligence capabilities in the President's initial proposal, but working together with the chair and the ranking member of the Intelligence Committee, Senator GRAHAM of Florida and Senator SHELBY of Alabama, and Senator SPECTER of Pennsylvania, who made some very substantial contributions to this effort, we concluded we needed to go further to give the new Department the tools it needs to detect danger and prevent attacks against the homeland. Again, we were advised over and over again in our hearings that in this difficult, awful business of fighting terrorism, the best defense really is an offense, and the offense is intelligence, to know through our considerable intelligence community effort and our law enforcement effort, nationally, and at State, county, and local levels of government, to be able to gather all that information, put it together on that one proverbial board so the same sets of eyes see it and they have the capacity to see a pattern which will tell them a threat is coming, and that they will act, therefore, to stop that threat before it happens.

Our colleagues on the Intelligence Committee have come to a point in their investigations of September 11 where they—I have not heard the results. Maybe they have not been published yet. There were some early suggestions of reports in the morning papers, but this afternoon there apparently has been a report on the gaps in the sharing of information, limited by old and no-longer-acceptable bureaucratic barriers.

We created a division, a directorate of intelligence, not to collect more intelligence but to receive it from everybody, so that those eyes, which are the public's protectors, can look at the information so they will have the maximum opportunity to perceive threats before they occur and act offensively to stop them.

Our proposal has already grown and adapted, therefore, over time to the best arguments and the best evidence. Of course, further refinement will be necessary as we go down the road, but I am deeply convinced that our committee has presented to the Senate a strong, workable structure, which is full of exactly the kinds of agencies and combinations the American people need to protect them.

The frightful facts of September 11 tell us that our Government was not doing enough to protect the security of the American people, and the terrorists took advantage of those vulnerabilities. It requires a Department of Homeland Security, up and running as quickly as possible, to close those gaps and eliminate those as a result of those vulnerabilities.

A Member of the other body, Representative THORNBERRY, played a very active and supportive role in similar legislation. To his credit, in early 2001 he introduced his own legislation in the House creating a Department of Homeland Security, well before September 11, 2001. Congressman Thornberry testified before our committee on April 11 of this year, and he said to us:

> We must resist the temptation to study a problem, this problem, to death.

I believe he is right. We have studied enough. We have deliberated enough. We have seen the consequences of our disorganization more graphically and horrifically than we ever could have imagined. Now we must turn our thoughts into action.

In fact, in response to the suggestion that we are going too fast, I say just the opposite. We have already taken too long as a legislature to begin to fix these problems. We have been living with the threat of terrorism for years. The scale has never approached, of course, the horror of September 11, but there were those who warned us that day, September 11, was coming. We knew the collapse of the Soviet Union was coinciding with the rise of other enemies, including subnational enemies; that advanced technology would too easily fall into their hands. We knew they were plotting. We suffered deadly attacks, both at home and abroad.

It is time now to act. If we wait to attempt reform any longer, if we delay, as this amendment would effectively do, I believe we will not have fulfilled our responsibility to the American people. The threat is not going to vanish overnight. It is not going to give us the time this amendment would require to contemplate perfect reforms. We have no choice but to balance this reorganization with the ongoing efforts to strengthen our homeland defense capabilities.

The fact is the advances we have made since September 11 have been, in some senses, in spite of the system, not because of it, because the system remains terribly disorganized and inefficient. The fact is that we need to act now. That is why I oppose this amendment.

We have taken a year to deliberate and made dozens of difficult decisions about what kind of department we want to create. This debate has been

productive thus far on the committee's proposal overall. I am pleased the majority leader filed a cloture petition yesterday which will ripen tomorrow, because it is time to begin to narrow the debate—not to close it off but to narrow it—so we can see an end point by which this body can act.

This amendment would force us to start again, forcing us to revisit every arduous decision we have already made without a clear end date by which the American people could have some sense of security that a Department would be up and working to protect their security.

Last year, former Senator Hart, who worked with former Senator Rudman, was so instrumental in our committee's proposal and the White House proposal. I heard Senator BYRD refer to those four men who were sitting in the basement of the White House secretly crafting the President's proposal. I apologize for the immodesty of this, but I do so on behalf of our committee. When one looks at the product of their labor, the better part of it—that is to say volume, the larger part of it—is taken from the bipartisan work done by the Hart-Rudman Commission and then by our committee.

Senator Hart told our committee in a hearing we held:

> This is a daunting task. But we owe it to our children to begin. It would be a mistake of historic proportions to believe that protection must await retribution, that prevention of the next attack must await punishment for the last. We can and must do both. For like death itself, no man knoweth the day when he will be held accountable and none of us knows how quickly the next blow will be delivered. I believe it will be sooner rather than later. And we are still not prepared.

I agree with every word. I say to the occupant of the chair, Senator Hart's comments not only show he bears the marks of a good law school education but he also went to Yale Divinity School for a period of time.

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

Mr. LIEBERMAN. I yield.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, the question to the Senator from Connecticut is on the issue of the timeliness of action by Congress. My question is: Does the Senator from Connecticut think it important to move—even on an earlier day, when the Senator from Connecticut introduced legislation last October for homeland security, which sat on a back burner, having been resisted by the President, the issue having sat on the back burner until the President endorsed the concept of a Department of Homeland Security—but does the Senator from Connecticut believe that too much time has elapsed already?

Mr. LIEBERMAN. Responding to the Senator from Pennsylvania, this Senator does, indeed, believe too much time has elapsed already in better organizing the Federal Government to protect the security of the American people at home.

In October of last year, I believe October 11, 2001, the distinguished Senator from Pennsylvania and I introduced a proposal to create a Department of Homeland Security, very much similar to the proposal that is before the Senate, though it has been revised and improved as it has gone along the way.

I have said it with some pride and gratitude that the President, when he made his proposal on June 6, took a lot from the work that our committee had done; I don't begrudge that because the President's endorsement of this proposal, which had been our committee's proposal, in fact, put it on the road to passage.

I hope we can find a way to come to a consensus on the great majority of this bill which most Members agree on and get it passed and not let the relatively small number of issues that divide us stop us from doing that quickly.

Mr. SPECTER. I have one more question, if the Senator will yield, and the question is on the issue of having under one umbrella the analysis of all of the intelligence branches—CIA, FBI, Defense Intelligence Agency, National Security Agency—on the issue that there were enough dots on the board prior to September 11, that had they been connected, there might have been a veritable blueprint if you put together the July FBI report from Phoenix about the young man taking flight training with Osama bin Laden's picture in his apartment, and the two al-Qaida men who went to Kualai Lumpur, the hijackers known to the CIA and not told to the FBI or INS or the NSA report, on September 10 that there would be an attack the next day, not even translated until September 12, and the information in the computers of Zacarias Moussaoui having been obtained with an appropriate warrant under the Intelligence Surveillance Act.

There was a veritable blueprint for what happened on September 11 and there is urgency, urgency, urgency as we speak to get the intelligence agencies to act together and to coordinate the analysis so we may have as full a picture as possible.

Mr. LIEBERMAN. Responding to the Senator from Pennsylvania, the Senator is absolutely right. The Senator from Pennsylvania has been a leader in congressional involvement and oversight of intelligence, I believe serving as chairman of the Intelligence Committee for a period of time. Again here he was very constructive and helpful in this committee's creation of the directorate of intelligence as we have created it.

I have met, as have many Members of the Senate, as has the occupant of the chair, with families of people who were lost, who were killed on September 11. They ask the gnawing question, which we would ask if we were them, and we should ask ourselves: How could this have happened? How could September 11 have happened? And one of the most painful answers is that if we had our intelligence and law enforcement agencies better coordinated it might not have happened. The Senator from Pennsylvania spoke eloquently to that.

The truth is, on September 11 there was no single place on which all the information would be brought together, from the intelligence community, from the law enforcement community. There is still no such place. So we remain more vulnerable than we should. This Department would create a director of intelligence that would do exactly that for the first time in our history. If we did nothing else with the Department—and the proposal does a lot else—that would be a substantial step forward in the protection of security of the American people.

I thank the Senator both for his questions and for his very consequential contributions to this legislation.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 4673 TO AMENDMENT NO. 4644

(Purpose: To provide for the establishment of the Department of Homeland Security, an orderly transfer of functions to the Directorates of the Department, and for other purposes)

Mr. REID. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID] proposes an amendment numbered 4673 to Amendment No. 4644.

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

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I believe the clerk earlier read, when I offered the amendment, the clerk misstated the number to be 4644. Has that now been corrected? It was No. 4641, which I think the clerk stated, but the amendment is numbered 4644.

The PRESIDING OFFICER. The Senator is correct, it is 4644.

Mr. BYRD. I thank the Chair.

Madam President, I do not intend to take the floor long, but I had understood that Mr. LIEBERMAN would allow me to address some questions to him at a point while he held the floor. He must have let that slip his mind because he yielded to others, which is all right; I want him to do what he wants to if they have questions to ask, and now I have the floor. I will address just a few of the points that the distinguished Senator had.

Of course, the distinguished Senator has pride in the work of his committee, under his chairmanship and under the

cochairmanship of the ranking member, Mr. THOMPSON. Of course he has pride. And he has great expertise, his committee does, certainly, with all the Members of it, great expertise in the subject matter of the legislation.

I am not on that committee. I said that before. I come as just an ordinary Senator. I am not a member of the committee. I am not an elected part of the leadership. I am President pro tempore by virtue of my long service here in my party and in the Senate, but I am an upstart when it comes to this legislation. I just came in the house out of the rain. I can understand the distinguished Senator's pride in his work. Who wouldn't be proud after spending all these months? I know that he is proud. But are we supposed to accept a piece of legislation without amending it because of the pride of authorship of a chairman of the committee, or any other Senator?

The distinguished Senator has asked me, as the chairman of my committee, how would I feel about bringing a piece of legislation—I think my words are being spoken in the spirit of what I think the Senator was saying. Unlike most other Senators, I cannot write down rapidly, quickly, what Senators are saying. I have a little trouble remembering exactly what they said, and if I misstate the portent of his question to me during his statement, I would be happy if I were corrected. I understood the distinguished chairman of the committee which has jurisdiction over the pending matter, I understood him to ask me, as chairman, how would I like to bring a bill out of my committee to the floor that has a certain amount of moneys for this and for that and had funds, line items, for certain programs, certain projects, how would I like it if someone offered an amendment to take all that away and change that to direct those funds to some other agencies.

I assure Members I would like for that work of my committee, along with Senator STEVENS and the other 13 Republican members and the other 14 Democratic members, to be taken as something that did not, was not worthy of the attention of the Senator and to take all that and just give a blank check. Instead of allocating the moneys the committee had determined in the ways that the committee had determined, the Appropriations Committee had determined, just change it all and say make it a blank check. No, I wouldn't like that. And I don't like the blank check that we are about to give the administration in this bill.

The distinguished Senator says he has pride in the work of the committee and doesn't want to see it changed. He would hope it would not be changed by my amendment, certainly, he says.

What did the distinguished Senator and his committee do? They wrote a blank check, as it were. They say to the administration: Here, we will pass this bill, and we are going to turn it over to you, lock, stock, and barrel. We are going to move off to the sidelines, and you can do it as you will. Here are the bureaus. Here are the directorates. Here is the superstructure, they say. Now give to the administration, over the next 13 months, without any further action by the Congress, the transfer of these various agencies, functions, and employees into the new Department. It is yours. We will have no further say in it.

Oh, you can come up. You can come before us and submit reports and all that. But by this law we are passing, that is all you can do, and it is all we will do. Here it is. Take it all. You have a blank check.

No, I wouldn't want to have someone take an appropriations bill that came out of my committee and strike out all of the line items, all of the provisions, all of the functions and money for functions, and so on, and say just give them a blank check. No, I am not for that. But that is what is being done by the bill of the distinguished Senator from Connecticut. His is striking out the details which my amendment would write in. My amendment would keep the Congress involved. Congress would have oversight, and time and again we would require, in my amendment, that the administration make its recommendations for legislation and those recommendations would go back to the committee, chaired by Mr. LIEBERMAN, and he would have an opportunity to take a new look at it and review it. Congress could conduct oversight.

But he is not going to allow that under his proposal. He is going to say: Here it is. Mr. President, we are not going to fill in the dots. We leave all that to you. You have 13 months in which to do it. You have 13 months to fill in the dots, fill in the details, determine which agencies will go into the Department, and there it is.

Also, the distinguished Senator talks about the agencies. Yet the distinguished Senator and his committee, they don't determine the agencies, what agencies will go into the Department. They don't determine those. I don't know right now what agencies the distinguished Senator from Connecticut is talking about.

Now the distinguished Senator from Connecticut, who is still on the floor, I hope—I would love for him to stay, to remain so I can respond to the points he has made and the questions he has asked. He says the Byrd amendment strikes at the heart of the Lieberman bill. I would like to know how it strikes at the heart of the Lieberman bill. It improves and strengthens the Lieberman bill.

He says the Byrd amendment would pull out of the bill most of the work the committee has done.

Why, it doesn't do that at all. I will tell you what is pulled out of the bill, a good bit of the work that was in the Lieberman bill. The Thompson amendment struck titles II and III from the Lieberman bill. That is what pulled a lot of the heart out of the bill. I didn't do that. I didn't strike titles II and III. My amendment doesn't strike titles II and III. They are already out of the bill. That was done by the amendment offered by the distinguished Senator from Tennessee, Mr. THOMPSON. That is what struck the heart out of the bill.

The distinguished Senator from Connecticut—I am trying to read my own feeble handwriting—says there is a sense of urgency to get on with this matter.

There have been some who have been referring to this bill as the greatest reorganization since the National Security Act of 1947. Someone just the other day, maybe it was the President—I might be wrong. If I am wrong, I hope someone will correct me—who was comparing this reorganization with the reorganization of the Defense Department, of the military, the creation of the Defense Department in 1947, saying that is the role model. Someone said that is the role model, the creation of the National Security Act, pulling these various military agencies into one department, the Department of Defense.

If that was the role model, if that is the ideal, then how long did it take for the National Security Act to pull these agencies together? How long did it take Congress to pull these agencies together, working with the President and working, by the way, with the military in this Government? It took 4 years. There were many bills offered in Congress. Committees did much work on that matter. It wasn't done overnight. It wasn't done in a week. It wasn't done in a month or 6 months. It took years, 4 years.

I can't understand why someone would say: Oh, we have done all this work. Of course, the committee has done a lot of work. I have already indicated to the distinguished Senator from Connecticut, I know his committee has put a lot of work in on this bill. But after he has laid out a litany of actions, a litany of hearings, and so on and so on, all of that doesn't really compare with the time that was put into the creation of the National Security Act, the creation of the Defense Department.

So here I can't understand all of this talk about a sense of urgency in this bill because it wasn't too long ago that the President was saying why do we need it? We don't need a new Department, and so was Mr. Ridge saying the same thing.

The distinguished Senator from Connecticut says this is a work in progress. So apparently the work in progress is going to be done by the administration over the next 13 months.

My amendment seeks to flesh out the Department, flesh out the directorates, and do it in an orderly way and with Congress conducting oversight throughout.

So I have listened with great interest to the distinguished Senator and his defense of this bill. But I say that any time a bill comes out of my committee

on appropriations, I expect it to be amended. And it isn't because I take pride in the authorship and the work of the committee that I fight another amendment. I never oppose another amendment simply on that basis, that my committee has conducted hearings. We conducted 5 days of hearings on the homeland security budget earlier this year.

But I am always expecting amendments to be offered. I don't oppose another amendment just on that basis. After all, the idea here is to improve the work product. That is why the Senate is one of the two greatest upper bodies ever created. It is why the Senate is the premier upper body of the world today. It has unlimited debate, and it has the right to amend. But to hand it over to the administration, lock, stock, and barrel, and say, Here it is, here is the superstructure, here we provide for some under secretaries, assistant secretaries, and deputy secretaries—and, of course, it doesn't have title I or title II. That was taken out by the fine Senator on the Republican side of the aisle. Those two titles have been eliminated. They were moved out of this bill, and I am so proud those two titles are gone. They are gone.

Here it is, lock, stock and barrel, and you take it and fill it out. You have 13 months in which to do it. Here it is. Take it and fill it up. This is the Byrd amendment. I don't want that because that would fill in some of the details. Congress, the representatives of the people, would fill in the details, some of the details with the directorates.

I am sorry the distinguished Senator from Connecticut is totally, I would say, misapprehensive of my amendment. It plainly states what it will do. I am sorry. He is a good lawyer. He can take the easy side of the debate and make a different case. He can take an apple, shine it up, and make it so you would think it were an orange. He is a good lawyer. I don't speak disrespectfully of him. There are lots of good lawyers in this country. He is trying to tell the American people that the Byrd amendment would rip the heart out of his amendment. It doesn't do that. It makes his proposition better.

I think the Senator wonders about the 13-month deadline. I have said that my amendment would complete the action in the Department and directorates, and the very agencies—although I don't know what agencies there are. The distinguished Senator from Connecticut hasn't yet told us what agencies are going to be put into the directorates.

Here is the legislation, my amendment that says, yes, the whole thing will be completed in the same time period—namely, 13 months roughly—that obtains in the case of the Lieberman proposal. Here is the language. Subsection (e), ''Deadline for Congressional Action: Not later than 13 months after the date of enactment of this act, the Congress shall complete action on all supporting and enabling legislation described under subsection (a), (b), or (c).''

There it is. In the meantime, we would fill in the details. Congress would have its hand on the throttle as we went forward in filling out in these various five directorates in title I.

Mr. LIEBERMAN. Madam President, will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. LIEBERMAN. As I have heard the Senator read this last section from his amendment, it seems to me that what it requires is that Congress finish its action on proposals made by the administration, fill in the blanks in the five directorates within 13 months—not that they would actually be up and running—whereas the underlying committee proposal requires that the full Department be implemented no later than 13 months after the President signs. And presumably substantial chunks of it would be implemented before.

My fear, naturally, is that not only has the Senator, I repeat, taken the heart out of our proposal but that there is no clear date in the Senator's amendment by which Members of the Senate or the American people can have confidence that there will actually be a Department of Homeland Security.

Mr. BYRD. Madam President, may I respond to the distinguished Senator? It is all going to be in the Senator's hands, under my amendment. My amendment would require the Secretary to send up to the Congress his recommendations for implementing and filling in the directorates.

What will happen when those recommendations come to Congress? They will be under the jurisdiction of the committee that is chaired so ably by the distinguished Senator from Connecticut. It is all going to be in the Senator's hands. I will trust the Senator to work in his committee to get those details and recommendations, to weigh them, vote them up or down, amend them, and report to the Senate.

As I have indicated so many times, I am perfectly willing and will be glad to help work out some expedited procedures whereby this will be done.

The whole matter will be in the Senator's hands. I would trust the Senator from Connecticut and his committee far more than I would trust that crowd down on the other end of the avenue. I am talking about the OMB Director, and others. I trust the Senator. I take my hat off to this Senator from Connecticut.

When we say that on February 3 something will happen, on June 3 something will happen, on October 1 something will happen, and in the meantime these matters will go to the committee chaired by the Senator from Connecticut, we trust that Senator to see that the work is done, that it gets done. I don't trust those at the other end of the avenue who will have the thing handed to them, lock, stock, and barrel—take it all; take it all.

I hope the Senator knows I trust him and I have great faith that he and his committee will expedite this action, that they will do a much better job, will keep the hand on the wheel, and the American people to whom the distinguished Senator has so properly referred will be much better protected. I think they would much more trust the elected representatives who are involved on that committee to do a good job and to see that the work is more expeditiously done.

Finally, I will say this: My amendment expedites the work of creating this Department—expedites; doesn't delay but expedites. Read the amendment.

Mr. LIEBERMAN. Madam President, responding to the Senator from West Virginia, I thank him for his trust that we will be able to get the work done next year. But the Senator from Connecticut believes that the committee I am privileged to chair has gotten the work done, and that is what we have presented to the Senate.

The Senator's amendment would not expedite our work. It would in fact block it. It would stop it from implementation. It would extinguish all we have done in these five areas.

I said in my earlier remarks that the committee and I certainly have no claim to perfection. Amendments are in order. As the Senator from West Virginia has said, it is the greatness of this body. And the Senator obviously has a right to submit the amendment that he has, and I respect him. I have a responsibility to my constituents, to my committee, and to my conscience to describe it. With all respect, it appears to me to be an evisceration of what our committee has done. One might just as well vote against the committee's proposal to support the amendment of the Senator from West Virginia. That is how conclusive I think it is.

As I have said, it sort of builds that structure and has a few people up in the attic but nobody underneath really working. A few people in the attic are the Secretary and the Under Secretary, but nobody underneath.

Mr. BYRD. Will Senator yield?

Who are the people underneath in the Senator's amendment? I will tell you who the people are underneath. They are people I am afraid of. The people underneath in the Senator's amendment—I am looking at that chart. I am going to ask to have a chart from my office brought up, too.

It is the people underneath I am afraid of. The people underneath are downtown. They are the people who are saying: Let's get on with it. Let's pass this bill and give the President flexibility, and all this stuff.

I trust the people underneath, if it is Senator LIEBERMAN's committee. I trust them, if they are underneath. That is why I put them front and center in my amendment.

Mr. LIEBERMAN. Well, responding to the Senator from West Virginia, the

authority we would give to this administration if—and I hope when—we adopt a bill creating a Department of Homeland Security is no different than Congress gave, I believe it was, the Carter administration during which the Department of Energy was created. It created the Department and gave President Carter and his administration the opportunity to administer it. We maintain the power of appropriations and oversight.

That is exactly what we would be doing here as a result of suggestions made by the Senator from West Virginia and the Senator from Alaska to our committee and components we included at their suggestion in our committee proposal. We have rejected attempts by the administration to have more authority over appropriations and reorganization.

So I wanted to just say—

Mr. BYRD. I thank the Senator. I thank the Senator for doing that.

Mr. LIEBERMAN. I thank the Senator from West Virginia for the suggestions because I thought they had great merit.

I just want to say this is a chart which describes who is under there. As I said in my remarks, we worked real hard on this. Under the Directorate of Border and Transportation Protection, the Customs Service; Animal, Plant and Health Inspection Service from the Department of Agriculture; the Transportation Security Administration; the Federal Law Enforcement Training Center—these are people we trust.

You and I agree these are people the administration seems to want to deprive of some of their existing civil service protections.

Mr. BYRD. Yes. Let me ask the Senator a question. In what titles of the bill does the Senator deal with this on the chart?

Mr. LIEBERMAN. I will come back and check the exact—

Mr. BYRD. He doesn't do it in title I, does he?

Mr. LIEBERMAN. No. Titles II and III, incidentally, are in the White House office.

Mr. BYRD. I know. These charts here, all this work the distinguished chairman is talking about, all these items, these agencies that he has on these charts, these are not the people underneath that are created by title I, are they?

Mr. LIEBERMAN. Yes. They are in fact created by title I. These are existing agencies that are brought from where they are now to be coordinated in the Department. The exception—

Mr. BYRD. How do we know those agencies are among the 28 agencies that are going to be brought into the Department?

Mr. LIEBERMAN. Responding to the Senator from West Virginia, they are quite literally transferred—I mean, literally—in the legislation that we have put before you from our committee. Each one of these is spelled out and assigned to the particular directorate which the chart shows it is located under.

Mr. BYRD. Would the Senator from Connecticut show the Senator from West Virginia and the Senate where my amendment takes those very agencies out?

Mr. LIEBERMAN. Well, as I read your amendment, in the Directorate of Border and Transportation Protection, what your amendment would do is first remove the definition of the mission of that directorate, and then it would eliminate all this underneath and say to the executive branch: Come back—incidentally, not by February 3, but not before February 3—and tell us what you want in this directorate. The same is true of the Critical Infrastructure Directorate or the Emergency Preparedness and Response Directorate.

So everything below what I have called the attic is eliminated, and basically these are generals without soldiers. These are admirals without sailors. They are just the top executives, and they have to wait until the administration makes the recommendations—not before the dates which you have set, and until the Congress acts. And we know Congress has a lot of ways to not act, if it chooses not to.

So the Senator may disagree with the structure, obviously. That is not only his right, I understand if he does, but this was our best judgment as to how to make homeland security work.

I just say that I do believe your amendment takes the heart out of our recommendation and delays drastically the date by which we would have a Department of Homeland Security protecting the American people. That is why I oppose it.

Mr. BYRD. Well, I appreciate what the distinguished Senator says. We have only to look at some of the—let's take the agency that was created, the Transportation Security Administration, to find how quickly the train left the track, how much in error, how many mistakes were made, how that agency went awry.

It should teach us that under the proposals of the distinguished Senator from Connecticut there is liable to be much of that happen throughout this whole Government when we are talking about 170,000 employees and 28 agencies.

I don't know if anybody in the legislative branch is aware of what the 28 agencies would be, what is the full number of the 28 agencies. The Senator may be absolutely correct in that, but I think that under any legislation that is passed, it is going to take many a prayer to have it come out right at the end of 13 months.

I have read recently that it is going to be impossible to meet the deadline of December 31 with respect to some of the protections that are going to be provided to the traveling public in the air. They have already said, well, that can't be met.

So I think at the end of the day we are going to find, under the proposal of the Senator from Connecticut, as well as under mine, if you want to make it that way, we are going to be subject to finding that we have heard that we did not provide enough time, that things are going wrong. And then when we increase the magnitude of what we have already seen go awry with reorganization proposals and find that here was 170,000 employees, I think there is going to be a lot of extending deadlines in the end.

But I am very sorry the Senator continues to believe that my amendment is taking the heart out of his proposal.

Now here is a chart. May I suggest to the Senator that all kinds of charts can be written, and all kinds of charts can be displayed.

Here, if anyone can read, with 20/20 vision, and getting up close, the number of agencies that are affected by this homeland security proposal of the administration—this is the existing bureaucratic structure we are talking about dealing with. This is the existing bureaucratic structure for all homeland security agencies. Here it is.

Well, my goodness, just to read the names of those would take even the Senator, who has good eyesight, several minutes—several minutes, I mean, 15 minutes at least, from the top down.

Look at this. Look at this chart. And all I am saying to the Senator is that we leave in his hands, in the hands of his good committee, the oversight of the creation of this Department, all of the directorates which his committee has proposed.

That is all I am saying. Let's leave it in the Senator's hands, not turn it over to the people in the executive department. I want the people to have security, real security. That is why I want to trust his committee.

Does the Senator have anything further?

Mr. LIEBERMAN. I thank the Senator from West Virginia. I want to say that it is because of the complexity of that chart that refers to the various agencies that have something to do with homeland security or the war against terrorism—you see the Department of State here, Director of Central Intelligence, the Department of Defense, it goes beyond just homeland security and security generally—it is that chart, with all its unconnected pieces, that has motivated our work on this bill.

Take, for instance, all the agencies that have something to do with border security. As we heard testimony in our committee, you go to a point of entry into the United States of America, you have three or four Federal agencies. Each one of them has their own office. Each has their own telephones. They cannot communicate rapidly with one another. The same is true of critical infrastructure protection, of the capacity of Federal, State, and local agencies to work together on emergency response, if, God forbid, there is another terrorist attack. That is the whole purpose of the Department we brought forward.

As I have said, you mentioned my use of the word ''pride.'' It is not so much personal. It is both for the committee, and it is not to ask colleagues to support our proposal because we reported it out. I think it is the best proposal we could make at this time. Therefore, it is the most responsive to the threat of terrorism and insecurity here at home.

Is it perfect? No way. Would it benefit from amendment on the floor? It would and will. Will the Department, once it begins going, when we pass this, still require the oversight of Congress, working with the executive branch to make it work better and better? Yes, it will.

My concern about the Senator's amendment is that it doesn't build on the work we have done. It eliminates it. In that sense, it does set up a procedure which really will delay the date by which we make—let me describe it this way—our first, best effort, which is what I believe our bipartisan committee proposal represents, to create a Department of Homeland Security which will close the vulnerabilities that those evil terrorists took advantage of on September 11. That is why I have my sense of urgency about it.

Mr. BYRD. Mr. President, I will yield the floor shortly. May I just say two things. One, I respect deeply the right of the Senator from Connecticut to disagree. I respect very deeply his own deep feeling of conscience that his approach is the better. I respect that. I salute him for it. But to say that the amendment I am offering does not build on the work that he and his committee have done is borne of misperception, misunderstanding possibly, of my amendment.

It builds precisely on that rock. It uses the same superstructure.

It was not my idea that we have five directorates in title I. It was not my idea that there be six under secretaries or seven, that there be five assistant secretaries. These were not my ideas. I took the product that the distinguished Senator from Connecticut brought out from his committee, and I have attempted to build upon that good work, build upon that rock and improve it.

I shall yield the floor on that and say thank you to my friend and let someone else have the floor.

I will shake hands with him so everybody will know that we are not really angry with one another. We may use all these fighting words. We get out our oratorical knives and we flash them. And they glint in the Sun. I am ready to sit down. I am not mad. I am not angry with the Senator at all.

Mr. LIEBERMAN. I thank the Senator from West Virginia. The truth is, this was an important exchange, an important debate. It does put in clear focus and does give the Senate a decision to make about whether they are prepared to go ahead and adopt the amendment, the proposal the committee has brought out, or whether they want to basically take the superstructure, if I may use your word respectfully, and then come back to fill it in next year or the year after.

It is not so bad to have a little emotion expressed on the floor of the Senate because we both feel strongly about our points of view. Hopefully, from that heat will come some light for all concerned.

I am honored to have participated. I thank the Senator.

I yield the floor. Senator THOMPSON has been waiting so patiently during this discussion. I regret he has left the floor. Pending his return, I yield the floor to the Senator from Michigan.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Michigan.

Ms. STABENOW. Mr. President, I appreciate Senator THOMPSON allowing me to speak for a few moments on this critical issue before he speaks. I have very much appreciated the exchange between my two friends and colleagues.

I rise in support of the Byrd amendment to the homeland security bill. I stress that I very much support a Homeland Security Department. I commend Senator LIEBERMAN, who is the first author. We speak of it now in terms of the administration's proposal, but I think it is important that we continue to recognize that it was the bill of the Senator from Connecticut originally. He is the one who brought this forward to us, and I congratulate him. I tend to support a Department. I think it is very important we do that.

It is very important that Congress have a continuing say in the creation of any Department of Homeland Security, precisely because it is so important. I believe the Byrd amendment does that.

Simply put, the mission of this new Department is just too important to be rushed into law. Senator BYRD has noted that in the past when we reorganized various military departments under one Department of Defense the planning took years. Clearly, we don't have years to create a Department of Homeland Security. I would not suggest that. But that doesn't mean we should not proceed in a thoughtful and deliberate manner to make sure we get it right. This is so important.

In fact, if I could make a historical observation, it was September 17, 1787, that our Constitution was signed by a majority of delegates to the Constitutional Convention.

When that first Congress under the new Constitution met in 1789, it took months of on-and-off debate to create the first three Cabinet posts—the Department of State, the Department of the Treasury, and the Department of War. They even considered creating a Department of the Interior but rejected it at that time.

Before those Cabinet posts were created, George Washington and his Vice President, John Adams, were pretty much the entire executive branch of Government. But that first Congress wanted to take the time to get it right. I suggest that we need to do the same.

Many questions remain, and if the public is to have confidence in this new Department, these questions must be answered. For instance, which agency should be transferred into the new Department, and why? What criteria is the administration using to determine which agencies should be transferred?

Almost all of the agencies being transferred have other functions that are unrelated to homeland security. How will those functions be affected?

In Michigan, there are concerns over whether or not the Coast Guard will have sufficient resources to deter terrorists trying to sneak into our country from Canada by boat and still fulfill its crucial role in search and rescue operations and ship inspections. The Coast Guard is critical to Michigan. These issues are very real for us.

In earlier discussions about a Homeland Security Department, the Department of Agriculture's Animal Plant Health Inspection System, APHIS, would have been moved to the new Department.

While it is reasonable that the border inspection mission of this agency be a part of the new Homeland Security Department, it is critical that the domestic mission of protecting animal and plant health and, ultimately, the health of American consumers, remain within the U.S. Department of Agriculture. If the transfer of APHIS to the Homeland Security Department were to be proposed again, I would like to have the chance to debate that and vote, because I oppose that transfer.

What about the workforce? Will our Federal employees lose the civil service protections created to keep politics out of the Federal workplace? How do we merge all of the different personnel and salary procedures of these different organizations?

Mr. President, I suggest that Senator BYRD is correct. These are huge decisions that will take time to have it done right. These are just a few of the questions that need to be answered. There are many more.

By establishing a Department of Homeland Security in well-defined phases, we will ensure that the Secretary of the new Department will have to return to the Congress and explain the rationale for the administration's decisions as they proceed. I believe that makes sense.

Here is the rough timeframe and key events to create this new Department, as Senator BYRD has outlined before. First, if the amendment passed, we could quickly pass a bill establishing the Office of the Secretary and outlining the superstructure of the new Department.

Then, early next year, the Secretary of Homeland Security will provide Congress with details for the Directorate of Border and Transportation Protection. Then, in the summer, approximately 120 days after the first presentation, the Secretary of Homeland Security would return to Congress and provide details for the Directorate of

Intelligence and the Directorate of Critical Infrastructure Protection. Then next fall—again, about 120 days after the second presentation—the Secretary of Homeland Security would again return to Congress with details for the Directorate of Emergency Preparedness and Response and for the Directorate of Science and Technology.

This more disciplined process will help us create a Department that is cohesive, responsible, and effective, with its duties and missions clearly defined.

I believe this is the best approach to make sure that an effective Department actually is created and is one that is in the best interest of our citizens. I strongly support the Byrd amendment and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I think the question before us is whether we will move ahead with a comprehensive reorganization plan to reorganize in a way that will greater protect our country—a plan that is supported by the administration, a plan that was approved by the Governmental Affairs Committee, or whether we go in another direction that I believe Senator LIEBERMAN is correct on, which would move us away and down the road toward delay. It would delay addressing the crucial questions that I think are before the Senate and the country with regard to how we best address our security in the future.

By nature, I tend to want to agree with the Senator from West Virginia when he says that we sometimes move too rapidly and without due consideration with regard to certain important matters that come before this body. I agree with that. I agree with it as I watch amendments to appropriations bills come forth that have not been considered by committees; that have not been subject to committee hearings; that have hardly been debated on the floor, and spend tens of billions of dollars; that grant and take away broad ranges of authority, as amendments and bills are passing through because they are deemed to be convenient vehicles. We do that all the time, unfortunately.

So what we have done with regard to this homeland security bill, in comparison to what we do on a regular basis, makes it look as if we are moving at a snail's pace—not too fast, but at a snail's pace—compared to the short shrift we give and the rapidity with which we pass sweeping amendments to these appropriations bills and other bills that come through here, circumventing the committee process as we do it.

I imagine my friend, the Senator from Connecticut, believes it somewhat ironic that it is suggested he has been giving the administration a blank check on the one hand, when so many have accused his approach as being one of micromanaging what the administration is doing. I must agree with him that the suggestion that this is broad and sweeping, and the implication that it is somewhat unprecedented power to the administration, is unjustified. I think he is right when he talks about the creation of a new Department or the merging of departments or any other broad range of administration activity. The administration is a part of a separate branch of Government, after all. Any time we do that we are granting authority, but it is hardly a blank check.

When we determine such things as there being a Secretary at the top who is answerable—and, first of all, confirmable—to this body, and is answerable under oversight, and creating under secretaries—there are, I believe, 17 individuals created by this legislation, if it passes, which are confirmable by this body, that is hardly granting broad, sweeping authority to the other end of Pennsylvania Avenue.

As my friends from West Virginia and Connecticut were talking about which end of the avenue they trusted the most, I was beginning to fear that they were going to come to agreement on an important part of this debate, but it didn't quite happen. So I feel better about that.

We have 17 confirmed positions in this bill, 6 directorates, pulling 22 agencies together, agencies that have already been created by this Congress, with their duties delineated. We give permission, as it were, for those to be brought together. We delineated in this bill the responsibilities of these directorates, the duties of these positions that we create.

We are certainly not going to lose our oversight duties and responsibilities, if we choose to exercise them. We are certainly not going to circumvent the annual appropriations process.

This bill does get into the details of our intelligence operations. Goodness knows we need improvement in that regard, and we can have a good debate as to how best to improve it. But when Congress in a bill gets down to the business of saying this particular information shall go here and this particular officer shall have the right to this officer's information and this particular information, and the President can step in here but he cannot step in there, that is hardly granting a blank check.

One could argue we need to do more of that and get into the weeds even in more detail, but one can hardly argue we are creating a blank check and certainly one that is inconsistent with what we have done, I think, as a Congress many times in setting forth other important Departments.

Reference has been made to the National Security Act, which was created in 1947. Congress acted then after due deliberation. I presume most folks think we went through the proper process and deliberated sufficiently before we created that agency in 1947.

As I understand it, Congress has subsequently acted 43 times since then. So we should make no pretense whether we do it today or tomorrow or next year or 2 years from now that that is going to be the end of it. It is going to be the beginning of a process to do the best we can. Senator LIEBERMAN said it well when he said: Our first best effort.

The question gets back to one I posed in the beginning: Do we do it now or do we do it later? I have some difficulty with certain parts of the bill that came out of committee. I certainly cannot argue with the detail which addresses the seriousness of the component parts of this new agency that is being created. It is a 347-page bill. There is some other historic legislation that has been passed by this body that is a fraction of that amount.

In sum and substance on that particular point, I will simply conclude that we are at least in the middle of the road in exercising our congressional authority in setting up a new Department as to whether or not we are having our say about how it is to be done versus just handing it over to the executive branch and saying: You fill in all the blanks. I respectfully submit the Congress has not done that.

We get down to the practical proposition that this Congress has relatively few days remaining in this year. We all know we are not going to stay around here too much longer. It is an election year. We may be in the first week of next month; we may be in the second week of next month. Nobody knows exactly how much longer we have. We have several important pieces of legislation still pending which we have to address one way or another—appropriations bills, Defense appropriations. We are going to be considering an Iraq resolution. These are important issues, eminent issues that we cannot avoid, must not avoid, and we will not avoid. We will take up those issues.

The question becomes, again, with regard to homeland security: Do we go ahead and consider these amendments and get on about our business, have a debate on these amendments and let everybody have their say on these amendments, fashioned the best we can, or do we put it over to next year and take it up again next year? Do we really want to go into next year, after having set aside the time to consider this, after about a year, since the start of hearings? Do we really want to conclude we want to put this bill off, in many respects, until next year?

I do not think we want to conclude that, and that is what the adoption of the amendment that is the business before the Senate will do.

We started the hearings process in the Governmental Affairs Committee on September 20 of last year. From September until June of this year, the committee held 18 hearings. So it is almost a year ago we started the hearing process with regard to this bill.

It was almost a year before that very important commissions started telling us facts we did not really want to hear, and that was that we were in danger;

that our country was vulnerable; that we needed to address the issue of terrorism; and that a part of the way we must address it had to do with the way our Government was organized.

In December of 2000, the Gilmore Commission released its report. In February of 2001, the Hart-Rudman Commission released its report. Of all the many positive aspects of this body, the most disturbing aspect is how many reports and warnings and how much information we have to get sometimes before it gets our attention. We could not get in this room all the GAO reports and commission reports and other similar reports and comments over the past few years telling us and warning us, generally speaking, of what was coming and what was looming out there, not to mention intelligence information, about which we might or might not be able to talk.

Public bipartisan independent reports were coming in at least a year before we even started our hearings. So we have had the benefit of those reports.

Would that we took that much time on other important issues facing our Nation as we pass amendments to appropriations bills left and right and hardly know on what we are voting, issues on which we have had no hearings, on which we have had no committee action, and we do it helter-skelter sometimes. Compare that to the process we have been through with regard to this issue. So we are here at the end of that time and we are on the bill. We are facing important issues with regard to this bill.

We have considered one of them: the question of whether or not the person who is going to be in the White House is going to be Senate confirmed or not. We had a vote on that. The Senate expressed its opinion, expressed its will on that issue in a pretty convincing fashion, in essentially a bipartisan vote. We decided that would not be a position subject to Senate confirmation because we were creating a new Secretary who was going to be subject to Senate confirmation, and we did not need that duality.

The President deserved counsel inside the White House separate and apart from the Senate-confirmed position. We decided that, but we took it up early last week. We only got a vote on it yesterday.

We have issues concerning the President's national security authority. This bill would actually take away authority that the President has traditionally had with regard to the exercise of his power in instances concerning national security. That is a portion of the bill with which I disagree, and in one form or another I want to debate that issue on the floor of this body.

We have the issue of management flexibility, whether we want to adopt the same old management tactics and techniques and laws that were passed back in the 1950s in the paper age where we have all of these multisteps that people go through in their careers. They go into the Government at a certain level and work their way up and stay with the Government 20 years and then they are out. That is a totally different era than we live in today.

Do we want to adopt those practices to homeland security or do we want to do it a different way? This is an extremely important issue. How are they going to be able to get anyone to take that job, without the tools that are necessary to do that job, under a system that can take years in the resolving of disputes over worker competence and things of that nature? The chance over the last 5 years of a person being dismissed and actually removed from Government because of incompetency is three-tenths of 1 percent. Government workers themselves, the overwhelming number of which are good, competent people, would like some opportunity to make better pay and have some incentive pay and to move around easily and to get hired sooner. Surveys will tell us there is more than three-tenths of 1 percent who might want to find another line of work. Do we want to address that now? We all know it is a problem.

Go down to the Brookings Institution and they will tell you—we all know it—that it is an outdated system. Do we want to address that? Do we want to address the issue of intelligence?

At the heart of all the problems we have seen, before and since September 11, is the problem we have had with the collection, analysis, and dissemination of intelligence material. What could be more important to this country than that? We have a provision in this bill that has to do with that, and we need to discuss it. What is the best thing to do about that?

These are important issues facing the country and this body at the heart of this bill. Are we going to put all of that off until a later time because we have only had a year since we have started the process in this body? I do not think we can do that.

The problem is that we have not had the opportunity to consider those issues. After we considered the issue of whether the White House person is going to be confirmed by the Senate, I stated that I wanted to ask for the yeas and nays, get a vote on it and move to the next amendment. We have not been able to move, since that time, until today. Senators have exercised their rights under the rules of the Senate, and as we came to address this issue yesterday none of those issues—national security authority of the President, management flexibility, what kind of intelligence operation we are going to have, the reorganization authority of the President—have been brought up.

I had not had the opportunity, and my colleagues have not had the opportunity, to address those issues at all, when everyone knows they are at the heart of this bill and they have to be addressed. What happened? Cloture was filed on the bill, which if passed would cut off a vote on all of those amendments.

So on the one hand, we are saying we want due deliberation, we have not had enough time to consider all of these important issues, and then on the other hand we want to have cloture so consideration of those issues are cut off, at least for the foreseeable future. That is the dilemma we have now.

I do not think my colleagues can have it both ways. I could not agree more that we need to take an appropriate amount of time, but simply waiting and watching the clock tick-tock, tick-tock does not make us any wiser. We need to consider the substance of these issues. That might make us a little bit wiser. We need to get on with it, in other words. That is why cloture is so inappropriate on something such as this. That is why we need to discuss and consider these amendments, instead of cutting off debate and washing our hands of it. We certainly should not be putting it off until another year.

How long has it been now since we have known we have had intelligence deficiencies with regard to human intelligence, with regard to our ability to penetrate these foreign cells that wish us so much harm? How long has it been since we have known we have had problems in that area? A long time. A long time. This is not news to us. We do not have to study that problem any longer. We know we have it.

How long has it been since we have known we have had problems at the border? A long time. How long has it been since we have known we have had problems at the IRS—INS? Well, IRS, too, especially, but the INS. We have known of those problems for a long time. They still exist. It is time we did something about it. I do not think the American people want us to wait until next year.

We have spent considerable time in these 18 hearings, and dozens more in the Senate and House committees. Congress and the President have had the benefit of inclusions and recommendations of several commissions, such as the Gilmore Commission and the Hart Commission, that have studied this problem extensively.

Frankly, it is going to be years before this Department is functioning, as it is, and certainly longer if we do not fix the flexibility problems I referred to earlier. If creating this new Department is really the right thing to do, the last thing we need to do is to put off its implementation.

Some would have us wait and deliberate until we get it perfect, but I submit that day will never come. Reorganization of this size is clearly going to require further action by Congress in the future.

The National Security Act of 1947 was not perfect. According to CRS, we have had to amend it 43 times since it was passed. Continuous oversight and

legislative action is a part of the process of governing, which we should be prepared to do.

I think it is instructive to look at the chronology over the last couple of years. I mentioned the Gilmore Commission, December 2000; Hart-Rudman, February 2001; September 11, of course, our country was attacked. From September through June, our committee held 18 hearings. Other committees did the same. In October of 2001, the President established the Office of Homeland Security and charged it with creating a national strategy. In October of that year, Senator LIEBERMAN introduced S. 1534, a bill creating the Homeland Security Department. In May of 2002, Senator LIEBERMAN introduced S. 2453, a bill creating a Homeland Security Department and a White House office. In May of 2002, there was a markup in Governmental Affairs. I did not support the marking up of that bill at that time. I probably said some of the same things the Senator from West Virginia said at that time. The thing that I was most concerned about at that time was that we did not have a national strategy. I thought a strategy as to how to approach a problem should proceed a bill that dealt with the problem. I still feel that way.

In July of this year, the President released a national strategy. Also, in July of this year, the Governmental Affairs Committee received recommendation from several other Senate authorizing committees regarding the homeland security bill. This was a composite of the studied considerations and recommendations of other authorizing committees. It may be true that not many Members in terms of a percentage of the whole body know a great deal about the details of this bill, but there are Members and there are other committees who do and have been a part of this process.

If there is truly a structural problem with the House bill or the substitute, we ought to consider it. We ought to take it up. We ought to talk about it. See what it is. See if we can do better. See if we need to set it aside. See if we need to amend it. We can do that. But so far, with the disagreements that we have on management flexibility and national security authority and things of that nature, most Members who have looked at it are in the same structural ballpark. And the parts we have a problem with, we are trying to deal with on the floor. So it comes down to the question of whether or not we want the Department right now. I believe it is the right thing to do and the responsible course is to act while we have the momentum.

There are a couple of points that are properly characterized as ''lesser'' that I think are worth noting. This amendment also strikes language that allows the Department some flexibility in the procurement of temporary services of experts and consultants. This language was a compromise offered by Senator LIEBERMAN in committee. It is important language that allows the Secretary access to the full panoply of experts he will undoubtedly need. Even under the limited structure envisioned by this amendment, he may need consultants to help determine the Department's needs for the legislative proposals or for the INS Directorate, which is not limited by the amendment we are now considering.

In addition, the amendment strikes the visa issuance force of the substitute. This is a provision that was also in the President's proposal. It provides the Secretary of Homeland Security authority to issue visas which would be exercised through the Secretary of State. All 19 of the 9/11 hijackers came to the United States with legal visas; 3 of these obtained their visas through their travel agents through the State Department's visa express office. Many people who come to this country obtain their visas through the State Department. Striking this provision takes away the ability of the Secretary to coordinate the visa issuance with the rest of the Department, maintaining consistent rules and policies.

With all due respect, I hope we will not adopt this amendment. I hope we can proceed with the important issues we have before the Senate that we have not had a chance to get before cloture was filed: The issues of whether the President's national security authority will be reduced; the issues of whether the new Secretary who is going to be taking on this broad responsibility will have the management tools with which to get the job done; the important issue of what kind of intelligence apparatus do we want within this Department; the issue of reorganization. All of these issues have been discussed in committee and have been discussed in some detail, many of them, by various commissions for some time. It is time for the Senate to discuss these issues.

I continue to mention them in passing as we are considering other amendments, but we have not had the opportunity to discuss these things. If we want more time to discuss these important issues, these aspects of the bill, I suggest we take that time. We have it. We have it right now. These are all issues that need to be debated and discussed before this body. I don't know why we would want to wait any longer with regard to that which we know is so deficient.

I suggest we get on about that and we be allowed to consider them in however much length or detail we want, with everyone exercising their full rights but talking about the substance of these issues that are before the Senate, that are staring us in the face, and are begging for our consideration.

Mr. BYRD. Will the Senator yield before he yields the floor?

Mr. THOMPSON. I would be happy to yield.

Mr. BYRD. I see other Senators wish to speak. I compliment the distinguished Senator on his statement. I say again, he is an excellent lawyer, I believe. Yes, he is.

Mr. THOMPSON. The lawyer part, anyway.

Mr. BYRD. He is an excellent lawyer. I think he has made from his point of view, certainly, an excellent statement in support of a bill that he does not like. He does not like this bill. He did not vote for this bill when it was in the committee. That is what I call a good lawyer. Here he is on the floor making an impassioned speech.

Mr. THOMPSON. It will get better.

Mr. BYRD. A very careful speech. It is thoughtful and I like that about him.

I think there was one item; the Senator, I believe, asked the rhetorical question, Do we want to wait until next year? Let me just say right here that the people who are providing security for our country, and are on the job for all of us, are on the job right now. They are out there when we are sleeping, and they are good people. They are very dedicated people. They are at the ports of entry; they are at the airports; they are at the river ports; they are on the 75,000 miles of northern and southern borders in this country. They are on the job.

I believe they arranged for the arrest of six persons in New York just a few days ago. We did not have a new Department of Homeland Security. Those people are on the job right now. They are doing the work.

So I think we have time to think this thing through and try to do the job right.

Again, I compliment the distinguished Senator. There are other Senators who wish to speak. Senator GRAMM from Texas is here. May I just say I know that Senators BOXER, CANTWELL, DORGAN, JEFFORDS, SCHUMER, and others want to speak on this amendment—not necessarily tonight but maybe in the morning. I thank the distinguished Senator again.

Mr. THOMPSON. I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Texas.

Mr. GRAMM. Mr. President, I spoke earlier today under our time limit and I was grateful for the opportunity and said much of what I wanted to say on this subject today. But I wanted to come over this afternoon to talk a little bit about the Byrd amendment and to focus in on where I think our problem is, in coming to what I believe should be a bipartisan consensus.

Let me, first, say that Senator BYRD has spoken at great length on this issue. On Friday I was running on a treadmill—coming as close to running on a treadmill as an old man comes , to exercise my mind as well as my body—I listened to Senator BYRD speak for almost an hour. I had, on two occasions, listened before. I want to make the following observations.

First, there is one point that I am convinced on by Senator BYRD and that

is the point about appropriations. Senator BYRD has talked about the Constitution and talked about our responsibility as an independent and equal branch of the Government. I think nowhere has his argument been stronger and more to the point than on the issue of the power of the purse. I want to make it clear that tomorrow Senator ZELL MILLER and I will be presenting a substitute. Maybe not on the floor. I don't know where we will be, in terms of ability to offer an amendment on the floor, but in the morning we are going to put out a substitute that we have been working on intensively for some 3 weeks.

One of the changes we have made is we have eliminated this 5-percent flexibility in appropriations. I believe that for every one problem that we have in trying to deal with homeland security and deal with a massive new Government agency, for every one problem we have where the President would want to reprogram funds unilaterally, we are probably going to have 500 problems with administrative flexibility and with the ability to put the right person in the right place at the right time.

So in listening to Senator BYRD and working with Senator STEVENS, at least in terms of what we are offering as an alternative that we believe has some bipartisan appeal, that takes much of what is done in this bill and in the House bill, we have been convinced that Senator BYRD is correct in noting that a fundamental power of Congress is the power of the purse. It is a power that the Congress has to be very jealous about relinquishing, and it is something that should not be done.

I am also convinced, as we begin the process of making this new Department work, that we can come up with a process whereby efforts to reprogram funds can be dealt with on an expedited basis. I had the privilege of being a subcommittee chairman for 2 years at the Commerce, Justice, State Appropriations subcommittee. I do not think there was ever a time where any of those agencies asked for reprogramming of funds that we ended up denying them. So I think that is something that can be worked out.

I think the points that were raised were strong points. It is an area where I find myself in agreement with Senator BYRD, and it is something that I believe we can and will fix. And the administration does support this substitute.

Mr. BYRD. Mr. President, if the Senator will yield for a moment?

Mr. GRAMM. I am happy to yield.

Mr. BYRD. I thank the distinguished Senator for what he has said. I appreciate so much his good work on the Appropriations Committee when he was a member of the committee. And our loss is the Senate Finance Committee's—I believe—the Senate Finance Committee's gain. I thank the Senator. I am flattered by his remarks. But he and I both know that he agreed with the Constitution on the power of the purse more so than with Senator BYRD. I thank him. That was part of his statement, but it was part of the Constitution that we both revere and respect, not only to that matter but certainly to that matter. And the Senator has ably addressed himself to that. I thank him.

Mr. GRAMM. I thank the Senator for his kind comments. I will say, in my 6 years on the Appropriations Committee I learned more about how Government really works than in any other of my service. Some of which I liked, how it worked. In some cases I didn't like how it worked.

Let me now turn to the other issues. I want to begin with the following point that I think in a reasoned way we all agree with. One of the interesting things about public life and public service, and serving the greatest country in the history of the world, is that it constantly comes home to me that good people with the same facts, as Thomas Jefferson observed, are prone to come to different conclusions. There are several areas where I have come to a very different conclusion than Senator BYRD, and a very different conclusion than Senator LIEBERMAN. I would like to try to explain why I have reached the conclusions I have reached. These areas have to do with what I think goes to the heart of homeland security.

I think it is very instructive to note that there have been areas where the Congress has already decided that the civil service system, in those critical areas, needed to be changed. It is not as if we have not had many warnings about the inadequacy of the civil service system.

The other day I was using some facts and there was an extra part to the story, but I want to repeat them with the rest of the story in it. I think they bring home the point.

In 2001, we had 1.8 million people working for the Federal Government. Based on the performance of those 1.8 million, we immediately terminated 3 people. Under the previous administration, 64,340 Federal workers were estimated, or at least judged by that administration, to be poor performers. Of those 64,340 out of 1.8 million, we went through the process of removal with only 434. And that process takes up to 18 months.

Currently, in OPM polls of Federal employees, the very people who many of our colleagues and many of the unions which oppose the President's bill claim to be representing, in opinion polls taken of Government employees, two-thirds of Federal workers today believe that poor performers are not adequately disciplined by the current system. That is two-thirds of the people who work for the Federal Government in random sample polling believe that job performance has little or nothing to do with their chances of promotion.

So, first, I think it is important, in looking at what we are asking in terms of powers to promote national security and to protect it, to note that the current civil service system is far from perfect.

Second, we have had study after study conclude that we needed a dramatic change in the civil service system—the Grace Commission report in 1983 and the Volcker Commission report. As we are all aware, Paul Volcker, former Chairman of the Federal Reserve Bank, certainly no union basher in the political phrase of our era and of this bill, concluded:

The current system is slow. It is legally trampled and intellectually confused. It is impossible to explain to potential candidates. It is almost certainly not fulfilling the spirit of our mandate to hire the most meritorious candidates.

Our own colleague, Senator Warren Rudman, headed up the U.S. Commission on National Security. We all know Warren Rudman. We know he is a serious person. We know he did not enter that Commission with any ax to grind. Yet he concluded that ''today's civil service system has become a drag on our national security. The morass of rules, regulations, and bureaucracy prevent the Government from hiring and retaining the workforce that is required to combat the threats we will face in the future.''

Not only are people in the system registering their unhappiness, but we have consistently had commissions headed by Democrats and headed by Republicans that have called for a dramatic reform of the system. Interestingly enough, we have responded.

When we decided to federalize inspectors at airports, in that bill we gave the President power in terms of personnel flexibility to hire and fire. We gave him the ability to get around the normal procedure that requires up to 6 months to hire somebody. We gave him the ability to fire for incompetence and to promote, to some degree, on merit.

We have done the same thing in the past with the Federal Aviation Administration. But, interestingly enough, in one area we have granted a tremendous amount of flexibility, when we decided to reform the Internal Revenue Service, we gave the executive branch of Government tremendous flexibility in hiring, firing, pay and promotion, because we were so concerned about the inefficiency and the potential corruption in the Internal Revenue Service.

I ask my colleagues: If we believed that the current system was failing us in the Internal Revenue Service and that we had a problem which required a different approach and more flexibility with regard to our sensitivity at the Internal Revenue Service with people who know our intimate financial information and who look at our tax returns. If we believed that flexibility to administer that Department was necessary—and we did, and we adopted it and it is the law of the land today—I wonder what people back home would

think when we said we thought flexibility was required at the Internal Revenue Service in terms of personnel because of its sensitivity and because of the lack of efficiency, but we don't think similar or greater flexibility should be provided to the President and to the Secretary of Homeland Security.

If we thought the problems at IRS justified a new approach, a new flexibility, the ability to hire and fire and promote based on merit outside the Civil service system in terms of special procedures, how, after 9/11 and after terrorist attacks that killed thousands of our citizens, can we not believe that homeland security is at least as important as the Internal Revenue Service?

When we granted flexibility for the Transportation Security Administration in the hiring, firing, and promotion of people who inspect your carry-on bags at the airport and helping to provide security, does anybody believe it made sense to give flexibility to the Transportation Security Administration but it doesn't make sense to give even more flexibility to the Department of Homeland Security?

I don't think 1 American in 100 would agree with the thesis that the IRS is more important and that we are more concerned about its ability to do its job than we are concerned about the ability of the Coast Guard to keep a nuclear explosive from being brought into New York Harbor.

But, incredibly, I think we got off into the ditch on this bill was that, while the Congress has already granted some flexibility to the President in the Transportation Security Administration, Internal Revenue Service, and Federal Aviation Administration, for some remarkable reason—even after the terrorist attack in New York—in this bill, a decision was made that the President should have less flexibility in managing the Department of Homeland Security than he does in managing the Internal Revenue Service. I think the American people will find that virtually incomprehensible, and I think they will find they are unable to accept it.

Another place that I think we got off into the ditch on this bill was taking away power that the President now has. If you went out and did a poll, and if you asked people: Do you believe, in light of the attacks on September 11, we should give the President more power in the ability to run the Departments of Government that have to do with homeland security after the attacks than he had before?—if you posed that question, I don't believe there would be 1 American in 1,000 who would have said: No, let us take national security power away from the President. Not 1 in 1,000 would have said : No, why don't we just leave it like it is? I think probably over 900 out of 1,000 would have said: Yes, we ought to give the President more power.

But, for some remarkable, unexplainable reason, the bill that is before us actually takes power away from the President which he has today.

I remind my colleagues, when the President is asking for the ability, for national security purposes, to override union contracts in terms of work rules, that is a power the President has today—unabated in those areas that deal with intelligence and national security. The President has that power today. The current and previous Presidents have used that power, and that power is currently in effect. The waiver of collective bargaining agreements has occurred in eight Government agencies as we debate this issue about whether the President should have this power. Every President since Jimmy Carter has had this power, and they have used the power. Currently, in the following agencies, collective bargaining agreements of one form or another have been waived: The FBI, the CIA, the National Security Agency, the Secret Service, the Air Marshals Offices of the Federal Aviation Administration, the Criminal Investigation Division at the IRS, the Office of Criminal Enforcement at the Bureau of Alcohol, Tobacco, and Firearms, and the Office of Enforcement and Intelligence at the Drug Enforcement Agency. In those eight Government agencies today, we are operating under rules that the President has asked for power to use in the new Department of Homeland Security.

I would have to say that never once in the Carter administration, in the Reagan administration, in the first Bush administration, in the Clinton administration—never in any of those administrations, so far as I am aware, did anybody propose taking away those national security powers.

As I have said, these powers are currently in force in eight different Government agencies. Yet, remarkably, after the attack on 9/11, and in a bill we wrote to respond to it, this bill takes away power that President Carter had, that President Reagan had, that Bush 41 had, that Clinton had. I just would like to note that I do not remember—and I have served in Congress since the last 2 years of the Carter administration - but I do not remember, in any of those administrations: That is too much power for the President to have. He ought not to have that power, and we ought to take it away from him.

But yet, remarkably, in a bill we have written to respond to the crisis we face, and the mortal risk we face, and in a follow-on to thousands of our citizens being killed in a terrorist attack, for some unexplainable and incomprehensible reason, the bill that is before us says we are actually going to take power away from the President to have a national security waiver of work rules under this new law and in this new Department.

I do not believe, if the American people really understood that is what the bill is trying to do, there would be 1 American in 100 who would be for this bill. And the President has said he is not for it, and he will veto it.

Let me explain what we are talking about in terms of these waivers. We are not talking about waiving worker protections in terms of the basic rights of people and their constitutional rights. We are talking about work rules that have been negotiated as part of union contracts that interfere with our ability to do the job in the new Department.

Let me, very briefly, go through a few of those work rules that have impeded our ability to do things similar to the things we would like to do in the name of homeland security. Let me do a couple of them in detail, and then I will just mention the others.

In 1987, the Customs Service in Boston decided they wanted to reorganize the inspection room. They concluded they could be more efficient in inspecting things coming into the country. So they set about the process of remodeling the inspection space.

The Treasury Employee Labor Union filed a complaint with the Federal Labor Relations Authority claiming that to reorganize that work space, to reconfigure it, without renegotiating the union contract, violated the union contract. It ended up going to the Federal Labor Relations Authority, and—guess what—they ruled that it violated the union contract and the Customs Service could not restructure the inspection area.

Now, look, after 3,000 people died in downtown New York, if we conclude, with this new Department, that we need to change the inspection area at the airport, are we going to go through 18 months of negotiating with the National Labor Relations Authority as to whether we can do it, when the lives of our people are at stake? Absolutely not. Nor would anybody in their right mind suggest that we should. That is the kind of waiver authority for which the President is asking.

I will give you another example.

Under the work rules that govern border inspection, Barry McCaffrey—you all will remember Barry McCaffrey, the good general who was the drug czar during the Clinton administration—he observed, in the San Francisco Examiner that under these work rules for Customs and INS, there were some things they each could and could not do under these contracts. He observed officials at one agency were actually forbidden to open the trunks of cars, a policy well known among the drug dealers. Then he talks about how actually knowing these work rules allowed the drug dealers to game the system.

Now, let me switch to the Coast Guard. Are we willing to let work rules and what some people will and will not do prevent us from searching a barge that might bring a nuclear device into New York Harbor? Does anybody really believe, in the Department of Homeland Security, the President should not have the power to waive those work rules when people's lives are at stake? Nobody believes that. But that is what we are debating here. That is what this debate is about.

Let me give you another example. In 1990, INS wanted to add an extra shift at the Honolulu Airport to deal with a surge in international flights in the afternoon. They had a backlog and had people waiting in line, so they wanted to add another shift in the afternoon to do their inspections.

But there was only one problem. The American Federation of Government Employees said: No, you are not going to add that shift because we have a union contract that says we get a say in whether more personnel come on board to do part of our job. And you have already guessed it: The union took the case to the Federal Labor Relations Authority and, they ruled that the INS could not add the shift.

Now fast forward through 9/11. Take into account that people died at the Pentagon and the World Trade Center. Are we really going to allow a union agreement that would make us go back and renegotiate the contract before we could put more INS agents in an area where we believe there is a clear and present danger to the lives of our citizens? Obviously, some people think we should. That is what the debate is about. But I cannot believe most Americans would think the President should not have the power to say: Now look, this is no Sunday picnic we are going through here. People's lives are at stake. We need more people here, and we need them today, and we are putting them here. And if you don't like it, go work somewhere else.

Now, that may seem extreme to some people, but I don't see it as extreme. If somebody is coming through Customs in Savannah, and they might kill my mother, I feel pretty strongly about it. And when we are dealing with homeland security, these kinds of issues have to be taken on and addressed.

Now, I have gone through enough of them in detail. Let me just touch briefly on a few of others: Prohibitions against special task forces operating in the Border Patrol. Listen to this, we have union agreements that prohibit us from stationing Border Patrol agents, for any period of time, where there are not suitable eating places, drug stores, barbershops, places of worship, cleaning establishments, and similar places necessary for the sustenance and comfort and health of employees. And I generally agree with that. We have a lot of great people who work in the Border Patrol. But when lives are at stake, when you have extraordinary circumstances, we cannot be required to go back and renegotiate a union work rule because an area where terrorists might cross the border does not have a dry cleaner. Dry cleaning is important, but it isn't that important.

You get the idea, in listening to some of our colleagues, that when the President is asking for the right to suspend these work rules, it is just willy-nilly, wholesale, we don't like your looks, you are out of work.

We are talking about being able to put a Border Patrol agent where there is no dry cleaner in an emergency; not that we want him to go off and live in a tent. But if he has to live in a tent for a few weeks or a few months to protect our citizens from being killed, I think they would willingly do it. I don't think it is asking too much to ask people to do it.

I will touch very briefly on the others. Body searches of detainees: You would think we would have the right to determine, in terms of our Border Patrol and our INS, what the body search policy would be based on the threat. But we really don't have that right because, under a union work agreement, the union has to sign off on a change in policy. And in 1995, when we tried to change the policy, the Federal Labor Relations Authority overruled the Department and set aside the new search policy.

We have had similar things happen with firearms. We have had similar things happen with what offices could be opened and closed.

This is not some idle concern. This is not some theoretical power the President wants. This is something that is a real-world problem today. It is something that the Congress gave the President in the Transportation Security Administration, the Internal Revenue Service, and the Federal Aviation Administration. But yet, remarkably, in the bill before us the majority in the committee decided that, you don't want to give the President the same flexibility with regard to the Department of Homeland Security where you are talking about lives. I don't think people understand that, and I don't think they accept it.

As another example of how out of focus with reality the current bill is, you might ask yourself, when we have had the Federal Government put up tens of billions of dollars to pay for what happened in New York to try to comfort the people who were hurt, to rebuild the Pentagon, to indemnify people, and as we begin the rebuilding process, you might ask yourself, in light of the new reality after 9/11, should Congress artificially make it more expensive for Government to help people rebuild something that is destroyed? Should they leave it the way it is, or should they make it less expensive?

I think if you ask the American people, in light of 9/11, do you think Congress should add a provision that will raise construction costs for FEMA for emergency assistance to people who have had their property destroyed, their lives uprooted, should we pass a law that requires the Government to pay an artificially high wage to people working in those areas, or should we rebuild those things competitively so we can help more people, I think if you ask the American people, they would say, why should we pay a premium when we are trying to help people?

Yet remarkably, almost unbelievably, in a bill that is supposed to be responding to 9/11, there is a provision which says that on any construction that we undertake in responding to a disaster, we have to pay an artificially high wage that numerous outside groups and groups within the Government have estimated would raise the cost of that construction in emergency assistance by 20 percent. Why in the world would you have a provision such as that in this bill? Why would you apply this provision called Davis-Bacon?

It is explained in one way; it operates in another. The way it operates is, you look at the highest wage paid anywhere in that region, which can be a huge swath of the country, and then anything that the Government does in emergency construction in that area, it has to pay that wage, whether there are good people willing to work for less or not, whether everybody else is paying less or not.

Why in the world would you put that provision in this bill? How could it possibly make any sense? The obvious answer is it doesn't make any sense. Nor are you going to hear people stand up and defend it.

I have talked longer than I meant to talk. Let me conclude by simply making a couple points.

A bill that is supposed to respond to an attack on our country and the great vulnerability we have as a result of that threat, that actually takes power away from the President to provide security and takes power away in the name of security concerns, is totally unacceptable. That is what this bill does.

The President of the United States, if this bill became law, would have less power to use national security waivers to promote homeland security than Jimmy Carter had or than Ronald Reagan had or than Bill Clinton had and that Bill Clinton used. Eight Government agencies today are operating under those rules. Yet in a bill that is supposed to be promoting homeland security, we say: It was all right for Bill Clinton to do it prior to 9/11, but now we are going to take that power away from George Bush.

No, you are not. That is not going to happen—not in this life. That is just not going to happen. And there is not going to be a deal cut on it. We are not going to adopt a bill that gives the President less power to respond to 9/11 than he had the day before it happened. It is just inconceivable and totally unacceptable.

No. 2, the President has asked for some flexibility in putting the right person in the right place at the right time. He doesn't want to have to wait 6 months to hire somebody.

The FBI agent, Colleen Rawley, who sent the cable into the home office of the FBI saying, we have people with terrorist links taking flight training and maybe somebody ought to look at it. Don't you think that maybe the President ought to be able to go back and promote that agent and give her a good pay raise? Also, I would have to

say that after the picture of these people who flew these planes in the World Trade Center was on every television set in America with their names, for the INS to turn around several weeks later and grant them a visa to come into the United States, I think the President should have had the power to say: Look, guys, we can't live with that, and you are fired.

Now, you may think you should have those powers. I do. You may think you should not. But how do you justify that we gave similar powers to the Internal Revenue Service and to President Clinton but we will not give at least the same powers to the Department of Homeland Security under President Bush?

Finally, there is just a lot of piling on in this bill. This Davis-Bacon provision is piracy; it is just piracy. When we are spending more money on emergencies than we have ever spent, the idea that we are going to make the Government pay a 20 percent premium—something we didn't have to do before this bill passed but now we are going to make them do it—it is absolute piracy. I think people ought to be ashamed that it is in there. I haven't heard many people bragging about it being there, but sure enough, there it is.

I wonder if we could not have had a bipartisan bill, if we had just started out with a set of principles: No. 1, whatever power the President had before 9/11 he would still have when this bill was written; No. 2, any flexibility we have ever given the President with regard to the Internal Revenue Service and its operation, the President ought to have, at a minimum, that flexibility, and No. 3, provisions that actually make the job harder ought to be debated another day. I believe if we had started with a set of principles—those 3—we would have had a bipartisan bill and 95 Members of the Senate would have voted for it. But for some reason, which I do not understand and cannot comprehend, we now have an issue which has become largely partisan. It all revolves around an effort to take away from the President powers he had before 9/11.

The real stumbling blocks on this bill boil down to three things: An effort to take power from the President in terms of national security waivers, which is not going to happen; then, a refusal to give the President personnel flexibility greater but similar to what we have already done in the IRS; finally, gratuitous provisions, I guess, in this piling-on mentality such as putting Davis-Bacon requirements onto FEMA something we have never done before.

Those things represent our problem, and I think as people understand them, I don't believe the provisions of this bill can be sustained. I do not believe that, if the public really understood what was going on here, they would put up with it.

I am hopeful that we can have an opportunity to vote on these issues. I think we will have a substitute that will try to deal with them. I am sure the vote is going to be very close. But I think it is important that people understand the issues. Something is really wrong when we cannot even get an amendment accepted that says the President cannot have less power than he has today. I mean, that is almost unimaginable, but this bill does that. I think when people understand it, they are going to be very unhappy about it.

I think the President's position is not perfect. I think he went a little too far on appropriations, but I think that can be fixed. I think on the key elements we are talking about now, the President is on the side of the angels. It is clear to me he is not going to budge, and so if we are unwilling to let the President have the power that every President since Jimmy Carter has had, then I guess we will have an opportunity to explain it to people, and I am sure they will ask for the explanation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. First of all, the discourse of the Senator from Texas has really pointed out the primary problems here. They are both political and substantive. The political problem is that there are those who have a different agenda than the President of the United States, who is simply trying to reorganize Government to deal with the threat of terrorism, to create homeland security for the American people.

Instead of cooperating in that effort, there are those who would settle old scores, create new agendas, or add new things. Everybody's motives are pure in this. The problem is that by getting the legislation so complicated, so convoluted, and so loaded down with other things, they are going to destroy the original intent, which was to streamline the process and make it easier to deal with the threat of terrorists.

My grandmother had great sayings, and one was: Too many cooks spoil the broth. It is not that we all should not have a hand in the drafting of the legislation, but I do think when you are trying to create something such as a new Homeland Security Department, you have to give some deference to the people in the executive branch who have painstakingly put this together, who have experience with making executive offices work, and to the President who has an idea of what he wants to do here. Instead, we have a lot of extraneous ideas floating around that I think, in the end, complicate it and add extraneous matters that don't have to be in there, such as Davis-Bacon requirements, which will add costs to construction.

Ironically, they have the effect—I cannot believe this is the intent of the authors, but it has the effect of giving the President less power to deal with these problems than he has today. Right now, the President would be better off with the agencies as they exist, coupled with his authority, from an administrative or executive point of view, to move people around within those agencies; he would be better able to achieve his goals than by adopting the legislation that is before us.

Let me point out a couple of other examples of why this is true. Senator GRAMM had several examples in areas of the bill he was looking at. Let me refer to another area. For some time, there has been an appreciation of the fact that in dealing with border and immigration issues, we really have two separate types of issues, and while both are dealt with as a part of the Immigration and Naturalization Service, which is under the Justice Department, I think some consensus has been developing that, in some way, we need to separate the border control function, which includes entities such as the Border Patrol, and the investigative services, and so on.

To separate those out—those are sort of law enforcement, border protection functions—to separate those from the more customer-oriented—I don't like that word, but that is the word in vogue now—customer-oriented services of immigration visas, student visas, and the legal immigration into the country, in other words—there is some sense to that division of responsibility.

This is something the President had offered. Initially, it looked as if the legislation that would be written here contained a version of that division of authority. But as it turns out, under the Lieberman proposal, it gets a lot more complicated than that. I don't know whether this is really intended, and there doesn't seem to be any particular rhyme or reason why it is done this way, but it ends up being convoluted, very complicated, unnecessarily bureaucratic, ineffective, and confusing at end of the day.

Let me describe precisely what I am talking about. Division B of the Lieberman bill creates the Immigration Affairs Directorate. That includes all immigration functions of the U.S. Government. So far so good.

Division A of the bill creates, among other things, the Border and Transportation Affairs Directorate. So far so good. That is supposed to be the entity that deals with the Border Patrol—basically controlling illegal immigration and terrorism threats on our border.

Under the Lieberman bill, it goes off track right after that because this Immigration Affairs Directorate is supposed to handle the visas, citizenships—all immigration functions, including all immigration enforcement functions, intelligence, investigations, detention, Border Patrol, and border inspections. All of those are moved into this immigration affairs box.

One might say: What is left in the other box? I cannot find much that is left there.

The problem is, we thought we had a solution to a problem. I thought everybody agreed to it. Now we are going

right back to the problem we had in the first instance by putting all of the law enforcement, antiterrorism, Border Patrol, investigations, detention, inspections—all of that—right back into the Immigration Affairs Directorate.

One of the biggest priorities of the President, in addition to dealing with terrorism, in the homeland security bill is to streamline the process at the border. Coming from a border State, I can tell my colleagues this is critical, and it goes all the way from Customs, which has a significant responsibility here, to INS and all the related agencies.

We have two somewhat contradictory needs that come together at the border. We have a big security need. We want to make sure no illegal immigrants, no illegal contraband, drugs, weapons, and the like are smuggled into the country. We saw recently how we were able to check out a ship that we suspected had cargo that was radioactive. It checked out OK, but we were able to have it stand offshore until we had an opportunity to run the equipment over it to make sure there was not a bomb or something radioactive on board. That happens every day at our land borders, at our seaports, and at our airports many hundreds of times—in fact, thousands of times. There is specialized equipment to make sure nothing is brought in that should not come into this country. That is critical to both the security of the country from a terrorism standpoint, as well as a law enforcement standpoint.

At the same time, we want to enhance commerce. We do not enhance commerce by having long lines of trucks or cars or people waiting to be checked out before they can come into the country.

On my border in Arizona, we have a huge problem with long lines, with trucks having to literally park on the Mexican side of the border and wait overnight to come through customs. That is detrimental to trade, commerce, to people and their lives.

I was reacquainted with a former staffer from Tucson, AZ, whose family lives in both Nogales, AZ, and Nogales, Mexico—two towns on either side of the border. She told me how hard it was going back and forth visiting family and friends. She had to wait in line literally hours. Therefore, we have these two competing needs, and we have to streamline the process.

Kudos to the Bush administration. They were coming up with a lot of good ideas about how to expedite the process of crossing for family and trade, while also making sure that we protect against contraband, illegal immigration, and terrorists entering the country.

The Lieberman bill, by contrast, gets us all the way back to where we started by refusing to move the enforcement function out of the immigration affairs box and into the Border Affairs Directorate where it belongs. Instead of streamlining our activity at the border, I fear it will be the same mess it has been in the past. I hate to describe it that way, but that is exactly the way it is.

The administration's proposal, by contrast, created this separate Border Transportation Protection Directorate, and that is where all of the Border Patrol activity, investigations, and the like, is embodied. As I said, under the Lieberman bill, all of that has been put into this immigration affairs box.

At the very least, it seems to me the Border Patrol and border inspections functions should be included in the border and transportation affairs box. One might ask: Can't reasonable adults work on this and get this straight? We have tried.

What I am saying, Mr. President, is there will be a substitute offered. Senator GRAMM has mentioned this, as has Senator THOMPSON. The substitute is a compromise of what the President proposed and features of the Lieberman bill and, I suspect, also features of the Byrd amendment. I believe this issue is pretty well straightened out in this compromise substitute that is going to be offered. It puts most of these functions that are law-enforcement-related functions, the antiterrorism-related functions back into the right box.

If we do not do this, the bottom line is security is going to be compromised. This is not something that is irrelevant and unimportant. It is very important to the whole purpose of developing the homeland security bill.

One might ask why this border transportation affairs box was created. What is left in it? The primary function that is left is Customs. Yet it describes the Customs Service still as a separate entity. So I am not exactly sure how that is going to work. Presumably, Customs will continue to operate almost independently from the Under Secretary of the Border and Transportation Directorate, which is not what was intended. It has the Coast Guard. Again, that is deemed a distinct entity. And it has the Animal and Plant Health Inspection Service and the Federal Law Enforcement Training Center, but the Federal Law Enforcement Training Center trains what? Border Patrol agents. We have a division there that does not make sense at all.

This is very confusing, it is unnecessarily complicated, and it is just another example of what Senator GRAMM was talking about.

Let's get back to the simple, direct approach that has been presented by the administration. That is a much wiser approach. It moves all the immigration affairs, with an emphasis on the importance of immigration services, to the Border and Transportation Protection Directorate, and it sends a message that we are serious about streamlining all of our activity at the border, whether it be the immigration-related activity or the law enforcement activity, and still effectively fights terrorism.

Let me mention one other problem before I finish. It is a related problem with this division B, the immigration affairs. It has language included which would abolish the Executive Office for Immigration Review and create within the Department of Justice what amounts to an independent agency for immigration judges.

Immigration law is complicated enough. There are a whole series of precedents. There is a process by which you have a decision made, a review of that decision, and eventually the final review all the way up the chain in the Department of Justice by the Attorney General of the United States. There is a body of case law built around this. There are procedures that are built around it. As far as I know, those procedures are working. I do not know of any reason, for homeland security, why we would want to change that. This legislation fundamentally alters the INS administrative process.

It seems at the very least the language, which designates when and how this new Executive Office for Immigration Review operates, needs to be changed so the checks and balances that exist today in the Department of Justice will either continue to exist there or in the new Homeland Security Department.

Unfortunately, this simply has not been written in a way that will guarantee we have the same kind of review and fairness and justice in the immigration process.

There are other things. I have a 5 o'clock engagement, so I am not going to go into more detail at this time. As I said, I do not question at all the motives of those who come up with different ideas on how to do different functions.

The problem is we all have our own wonderful ideas about how everything should be fixed, and if we try to do that all in the homeland security bill, we may be biting off more than we really need to chew. We may need to get back to the basic task, which is to ensure we can protect against terrorism and have real homeland security and have a reorganization of Government that enables us to do that and not take on every other issue that people have that they have wanted to deal with and settle up over the years and use this bill for the opportunity to do that.

Those things that work well enough the way they are, leave well enough alone. But with respect to this question of border security, I think we have to pay a lot of attention to the experts who have suggested it is critical the emphasis on border security be recognized and that we understand what happens when we put the group of people who do that work in a box or a division or directorate which has other responsibilities.

This is arguably one of the most critical functions of the reorganization of homeland security, and we have to get it right. I am hoping my colleagues will consider, when we offer the substitute that I believe fixes this and gets

it back more to the original intention, that whatever else they may think about aspects of the Byrd amendment or the Lieberman bill, they will recognize this is an improvement and support that feature of the substitute.

The PRESIDING OFFICER. The Senator from Connecticut.

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

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, earlier I spoke at some length expressing my opposition to the amendment introduced by Senator BYRD. Members have come to the floor and have spoken not so much on the amendment offered by the Senator from West Virginia as they have on another question which engages some considerable debate among Members of the Senate, and that is the question of civil service and management flexibility. I want to respond to the statements of the Senator from Texas and the Senator from Arizona and, to some extent, my friend, the Senator from Tennessee.

I have been disturbed and disappointed by the criticisms of the legislation that came out of our Governmental Affairs Committee, which are based on the claim that it fails to give the President and the new Secretary of Homeland Security the authority they need to manage an effective Department. That is a serious charge and one that I respectfully say is simply not right.

Those who have followed the development of this proposal through our committee know my intention since the beginning has, in fact, been the opposite, which is to give the President and the Secretary all the power they need to build a strong, efficient, and effective Department; in fact, more power to do so than this President wanted for some period of months. Ever since last October, along with other Members of the Senate, I have been asking for a Cabinet Department with authority and accountability precisely because I was convinced the President's initial creation of an Office of Homeland Security, headed by Governor Ridge, without statutory authority or budget authority, was too weak to get the job done.

It seems ironic to me now that the President, who for months resisted the idea of a Department of Homeland Security and said that the Office of Homeland Security, headed by a coordinator, was all we needed to safeguard the Nation, now says that the Department we would create gives him inadequate authority. I think this debate is really a detour from what should be our urgent common cause, and that is the creation of a new Department that will protect the security of the American people, about which we agree on the majority of its components.

This is a debate that is being conducted in a kind of inside-the-beltway vocabulary and not in good old, plain spoken English.

On civil service rights, union rights, appropriations, and transition authority, the President claims he deserves flexibility and that our legislation denies him flexibility by threatening to handcuff him and the Secretary from exercising their rightful authority, but the President's pleas for flexibility are, in fact, a request, in my view, for broad and unchecked authority in this regard. If we in the Congress do not provide that broad and unchecked and, in my opinion, often unprecedented authority to this President and Secretary, we are being branded as inflexible.

Congress has a duty to the American people in this case to write the civil service laws. If we in the Senate turn over all that responsibility and authority to the executive branch, simply because the President urged us to do so, I suppose one could say it might streamline things somewhat but we would be very much like a board of directors yielding all authority to the management—and we have seen in recent times what can happen when boards of directors do that.

President Bush and Governor Ridge suggest our legislation will create an ineffective Department of Homeland Security because we decided not to give them the authority they requested in the President's bill to unilaterally waive and rewrite civil service law. That is what they want. Extraordinary new powers. And they claim that without that authority this Department is somehow not even worth creating, and they are threatening a veto if they do not get exactly their way on these provisions. That, in my opinion, is a distortion of the facts and a confusion of priorities.

The fact is, the Department of Homeland Security our legislation envisions will be a modern, performance-driven Federal agency, one that the Secretary and the President will have extensive authority to manage. The committee-endorsed bill contains flexible civil service provisions, including a broad, bipartisan civil service reform package, provisions that strengthen the administration's hand when it comes to managing the new Department.

But we have incorporated these reforms responsibly, not haphazardly, preserving the central idea of the civil service system, which is accountability in the workplace. That is at the core of the civil service system that was codified in law more than 20 years ago. It would preserve the appropriate authority in the legislature to write those laws.

I ask my colleagues to look carefully and honestly at what the civil service system is, what kinds of reforms we provide in our legislation, and what the amendments being discussed to alter the civil service and collective bargaining rights of Federal employees, as protected in our committee's work, would do.

The civil service system, first, is often derided, but rather than taking the road of caricature, let's try to understand what it does and why it was developed. Once upon a time in government the rule used to be to the victor goes the spoils—all the spoils. Most of us know about the age of the spoils system officially ushered in by Andrew Jackson, in which elected officials used the Federal payroll to reward their friends and supporters who, not surprisingly, were not always the most prepared people to fulfill those particular functions. That may have been good for the politicians of their day, but it wasn't good for the American people because it produced a government with minimal institutional memory, minimal incentive for meritorious employees to work hard, to rise through the ranks, and with both of those, minimal public trust.

The civil service system changed that, moving the executive branch from a spoil system to a merit system with limits on favoritism and cronyism and to a transparent framework for attracting and retaining the most talented public servants. That system has evolved over time, but at the core it is still designed to shield most public servants and the public they serve—us—from the forces of partisanship and favoritism and special interest influence that can erode the merit-based workplace in any administration. When the opponents of this legislation deride the civil service system, these are the principles they deride. When they mock the system, these are the values they mock.

Today, the top echelons of Departments are subject to political appointment, as they should be, to allow a President to select the loyal agency leadership he needs and deserves. But the bulk of public employees are protected against the whims of changing political climates. We now understand that effective Departments are made up of both types of employees, working closely together and depending on one another. Career civil servants who develop expertise, know the ins and outs of Government, and carry on the vital work of our Government from one administration to the next, on the one hand; and political appointees who lead the Departments, set high-level policy and advance the agenda of the President's administration.

I will not stand here and defend every phase or clause of the civil service system, just as I doubt anyone would stand and defend every clause of the Tax Code. At times the system has been too slow or too rigid to adapt to the changing workplace, to recognize and reward excellence and to root out failure. Some of the flaws have been

fixed over time. Others have not and remain challenges.

I strongly support the system's fundamental principle which is to provide a check on the politicalization and patronage to which Government agencies will otherwise be susceptible in any administration. Civil service laws not only assert that personnel decisions should be based on considerations of merit, but they provide procedures and remedies if those principles are violated.

Think for a moment what it could mean to lose the public accountability assured by the civil service system. Talented senior managers, who dedicated their careers to public service, could be pushed out and replaced with patronage appointees. Potential whistleblowers at all levels of the organization would know they have little or no real protection against retaliation. Remember, we all praised Colleen Rowley when, in the courageous memo, she exposed the FBI's weaknesses so we could repair them. Those who would dismantle the civil service system make it more likely that the Colleen Rowleys of tomorrow and the Department of Homeland Security would be silenced, not heard.

There was an actual case following exactly that pattern that occurred with a Federal employee who became a whistleblower after September 11, crying out that there was inadequate protection on our northern border. In fact, he was suspended by his Department. His union came to his defense and he was given back his job because a suspension for blowing a whistle in pursuit of the public interest was irrational, unfair.

Employees' union representatives, if allowed at all, could be stripped of much of their ability to protect rank-and-file workers against abusive or self-protective political appointees.

Veterans and minorities under the proposals made by the President for so-called management flexibility can see their statutory rights ignored or left with insufficient remedies. That is why our committee did not just deride the system. We tried to fix it, and I think made some real progress. Rather than just handing the President the authority to eliminate whole chunks of existing civil service protections, we developed the details for the key reforms we need to make this new Department work well.

I believe existing laws also give the President and Secretary far more authority and flexibility to run an efficient, effective, and performance-based Department of Homeland Security than the President and Governor Ridge have acknowledged. The administration says that the new Department cannot function without ripping up the civil service system and starting from scratch. That is a myth. The General Accounting Office reported a few years ago describing the civil service law as codified in title 5 of the United States Code:

> We found that, over the years, Title 5 has evolved to give federal agencies more flexibility than they once had—and often, more than they realize—to tailor their personnel approaches to their missions and needs.

In a similar vein, last year the Bush administration's own Office of Personnel Management issued a handbook entitled ''Human Resources Flexibilities and Authorities in the Federal Government.'' That handbook painted a much different picture of the civil service law than we are now hearing from the administration:

> We have designed this handbook to communicate with you about the myriad human resources (HR) flexibilities and authorities currently available and how they can be used to manage your human capital challenges. We serve as a resource for you as you use existing HR flexibilities to strategically align human resources management systems with your mission. Through this handbook, you may be surprised to discover how flexible Title 5 is in meeting your organizational needs.

I respectfully suggest to the White House that perhaps, if they looked at this handbook put out by their own Office of Personnel Management, they, to use the words of the handbook, would be:

> . . . surprised to discover how flexible title 5 is in meeting your organizational needs.

If we in Congress were to believe the administration's recent claims that the civil service system is a hidebound anachronism, we, too, might be surprised to discover how flexible title 5 actually is.

There is substantial flexibility in existing law, as I have said. But to rise to the challenge of the war against terrorism, we wanted our legislation to go further. So we have incorporated sensible consensus reforms to improve the way Government manages personnel. We have updated the civil service system to give the Secretary of Homeland Security and the President all the tools they could conceivably need to build the most effective Department of Homeland Security without compromising the underlying values of the civil service system. In fact, if our legislation, as currently before the Senate from our Governmental Affairs Committee, is adopted, the Secretary of Homeland Security will literally have more management flexibility than any Secretary has today.

Incidentally, I want to give special credit to Senators VOINOVICH and AKAKA, who worked together over a long period of time to develop the reforms in our bill. We have adopted these significant and governmentwide improvements in the civil service system.

To support research and development, we also authorized the Secretary to use innovative techniques to hire personnel in the new Science and Technology Directorate, for instance. Taken together, this package gives the Secretary the ability to speed up staffing of new employees, to recruit and retain top science and technology talent, to reshape the Federal workforce, to procure temporary services outside the civil service system when there is a critical need, to provide more effective bonuses for exemplary service, and to make other valuable changes to help the new Department attract, maintain, and motivate the best employees.

Senator VOINOVICH has been a tireless advocate on behalf of a principle and a reality that does not get much attention around here but is critically important to the functioning of the Federal Government and that, again, is described in a Washington beltway term, ''human capital management.''

The point is, how do we get the best people to come to work for the Federal Government and then get them to have the widest latitude for their talents and encouragement to continue in Federal service? Part of that clearly is the protections offered by the civil service system.

I cannot emphasize enough that the provisions contained in our legislation have been hammered out over time with many contentious issues being carefully and, I might say, cooperatively resolved in a bipartisan fashion. We all know how detailed this can be and how much care rewriting the law demands. The reforms we have incorporated, the Voinovich-Akaka reforms, reflect collaboration, consensus building, and the input of countless experts.

I want to say particularly that Senator AKAKA, our distinguished colleague from Hawaii who is chair of the Governmental Affairs Subcommittee on International Security Proliferation and Federal Services, has now been working hard for 3 full years, with Senator VOINOVICH of Ohio and others, to adapt the civil service system to the demands of the modern workforce and contemporary Government. They are unsung heroes in bringing human capital management into the 21st century. Out of their collaboration has emerged this bipartisan package of bold but sensible civil service reforms that are incorporated in the bill that came out of the Governmental Affairs Committee.

Now, on the other hand, the administration wants to throw everything out. Our bill has done, I think, the difficult work—but the work that Congress has an obligation to do—of separating the good from the bad, discarding the chaff and keeping the wheat. In fact, our reforms do more to constructively change what is commonly viewed as one of the most inflexible areas of civil service law—namely, the ability to swiftly hire top-flight talent—than any other proposal I have seen, and certainly any other that is on the table.

The President would wreak havoc on the current framework and put nothing in its place. I hope critics of the approach the committee has taken will look carefully at these flexibilities I have described, which are substantial indeed. Let me elaborate just a bit more on what some of those authorities are.

First, we give the administration the power to put the right people in the

right place at the right time. Existing law allows the Secretary to move employees around in the Department, either by permanent reassignment or temporary detail. I would guess that most Members do not appreciate that. Existing law allows the Secretary to move employees around the Department, either by permanent reassignment or temporary detail. Collective bargaining agreements may not affect the authority of a manager to assign employees and to assign work. Again, in all the discussion about collective bargaining and national security, this is a fact that is being overlooked. It reminds us how limited are collective bargaining rights of Federal employees. They can't strike—that is prohibited by law. But collective bargaining agreements actually may not deal with the authority of a manager to assign employees and to assign work. Any employee who refuses to be reassigned can be fired, and existing law allows managers to offer recruitment bonuses, special salary rates, and even high critical pay levels to attract high-quality employees.

New provisions in our legislation significantly simplify hiring so that employees can be hired with little or no red tape. A government-wide amendment offered by the aforementioned Senators VOINOVICH and AKAKA allows for the direct appointment of candidates to positions that have been publicly noticed when it has been determined by OPM that there is a severe shortage of candidates and a critical hiring need.

A second Voinovich-Akaka amendment will allow agencies to select employees without applying the rule of three, under which agencies may not look beyond the three top-scoring candidates for a competitive position.

To accommodate special needs of the Department, the Secretary may procure personnel services whenever necessary, due to an urgent homeland security need, for periods of not more than a year, without regard to the usual pay caps. Let me go back. Our legislation says to the Secretary of the new Department of Homeland Security: You can actually enter into a contract with people for services for not more than a year without regard to the usual pay caps when you say there is an urgent homeland security need to do that.

Finally, in this regard, to support research and development, the Secretary, as I mentioned, is authorized to use innovative techniques to recruit top science and technology talent.

In fact, the bipartisan package of flexibilities in our legislation offers more in the area of hiring than does even the bill that passed the House, which does not include the direct hire authority in cases of critical need.

Second, the Governmental Affairs Committee legislation amendment before the Senate gives the Secretary new authority to reward good performance so we can create a Department that encourages excellence among all its employees. Starting under existing law, the civil service law provides managers numerous avenues for providing incentives and rewards for good performance. Managers can decide, for instance, whether employees have earned raises known as step increases based on performance, and can award further ''quality step increases'' for exceptional performance. Managers can also grant incentive awards for overall high performance or for exceptional work on a particular assignment.

Managers can pay special bonuses to help with retention or relocation of particularly desirable employees.

Contrary to what some in the Administration have been saying, civil service rules impose no cumbersome process for managers to gain approval of a pay raise. President Bush and the new Secretary will be free to fashion as streamlined a process for giving merit raises as they can.

The bipartisan Voinovich/Akaka amendments included in our legislation strengthen performance bonuses for senior managers, by revising outdated rules that had required that bonuses for senior employees be spread over two years.

Finally, it is critical to recognize that under existing law, the administration has the power it needs to discipline and remove poor performers.

Under civil service law, during the first year of employment, a Federal worker may be fired for virtually any reason without notice. Following the one-year probationary period, under civil service statutes, an agency must grant the employee a reasonable time to improve performance, after which the agency owes the employee 30 days' notice of a decision to demote or fire. And contrary to stereotype, outside appeals are handled after an employee is off the payroll.

If a manager is sufficiently concerned about an employee's poor performance or misconduct, the employee can be pulled from duty immediately, without hesitation or red tape. If necessary for national security, the employee may be suspended without pay immediately. After investigation and review, if necessary, the employee can then be fired without appeal. The President can authorize any agency head to suspend and fire where necessary for national security, and the President is free to give this power to the new Secretary of Homeland Security.

The allegations which have been made on the floor that we will limit the powers of the President regarding national security just do not take into consideration this provision in the law. The President can authorize any agency head to suspend and fire where necessary for national security immediately and without pay.

I have seen some opponents of our approach contend that under our legislation, incompetent, irresponsible, or even intoxicated employees couldn't be removed from duty. This is simply wrong. And I regret that this myth is being stated as fact occasionally by one or another representative of the administration. The truth is, under current law, such an employee can be removed from duty immediately, without hesitation or red tape. And the employee can be taken immediately off the payroll if the Secretary determines that he or she might endanger national security.

But that is not all. We understand the Secretary may need more authority down the road. That is why we explicitly leave the door open for the executive branch to get more power, as needed—because neither we, nor, I believe, the administration, yet knows what the experience of assembling this big new Department will teach its managers about the specific modifications to the Department's personnel system that may prove necessary. We want to give the Congress and the administration the opportunity to tailor additional authorities and flexibilities to the specific circumstances we face.

And they are free to come back and make that case to us. During the initial 18-month startup period for the new Department, our legislation specifically requires the Secretary to submit to Congress semi-annual legislative recommendations that will help integrate the disparate personnel systems in the new Department and will provide any further personnel authority that is necessary to meet the needs of the new Department.

All we ask is that these requests are based on some experience, not on ideology or assumption. We want them to be specific, not hopelessly broad. And we want the process to respect the proper role of Congress to consider the proposals and write that law.

It is not appropriate for Congress—it has a familiar ring to it, I say to Senator BYRD—to write a blank check for a new Department regarding the civil service law allowing them to disregard that law—no more appropriate than it would be for us to write a blank check for it to give a new Department blanket exemption, for instance, from environmental law, civil rights law, or protection of the rights of the disabled. Rather, what we should do—and what we do do in our bill—is to provide a swift and acceptable mechanism to provide more authorities if and when the administration makes the case that they need them.

In developing the provisions of our bill that invite the Secretary to come back to Congress with requests for further personnel flexibility if he deems it necessary, our committee was influenced by my experience working with the Comptroller General when he asked a couple of years ago for additional personnel authority at GAO. He advised the Governmental Affairs Committee that the legislative flexibilities he received might not be appropriate for other Federal agencies, but that the process he and Congress undertook to

justify that legislation would be appropriate. I would like to read an excerpt from Mr. Walker's testimony on that subject:

> Congress can play a defining role in determining the scope and appropriateness of additional human capital flexibilities agencies may seek through legislation. For agencies that request legislative exceptions from current civil service constraints, Congress can require that they make a sound business case based on rational and fact-based analyses of their needs, the constraints under which they presently operate, and the flexibilities available to them. For example, before we submitted human capital legislative proposals for GAO last year, we applied the due diligence needed not only to identify in our own minds the flexibilities we need to better manage our human capital, but also to give Congress a clear indication of our needs, our rationale, and the steps we were committed to taking in order to maximize the benefits while managing the risks. The process we followed included a thorough analysis of our human capital needs and flexibilities, clear standards of implementation, and multiple opportunities for employee involvement and feedback.

GAO's advice on this subject was even clearer in another submission to the committee, which said, ''agencies should be required to prepare a business case and take steps to address their challenges within existing law before being granted any additional legislative flexibility.''

In other words, Comptroller General Walker laid out the case for what reforms he needed. He asked for specific authorities—not for a blanket exemption. We considered his request, and we gave him what he wanted.

That is the way it ought to work. That is the way our committee's proposal regarding civil service would have it work.

Some of my colleagues have claimed that in our bill, we gave less personnel flexibility and authority to the Secretary of Homeland Security than we in Congress gave to the heads of the FAA, the IRS, and the TSA. That is just wrong. It is not true that Congress simply granted personnel flexibility to the heads of those agencies. To the contrary, the personnel flexibilities that Congress provided for those agencies is shared through a collective bargaining process between agency managers and the Federal employee unions at those agencies.

And in the best companies in our country today, following modern management techniques, the old labor-management divisions have ended. People are working together in a cooperative fashion.

I visited an automobile parts company in Ypsilanti, MI, a couple of years ago. There are remarkable changes. The workers on the floor elect the foreman for a set period of time. They can reelect him or not. The executives moved out of their offices and turned their office space into a fitness center for all employees. Management moved their desks right out on the floor where they are working together.

That is the standard for modern management practice. That is what we adopted for the IRS. For example, we granted several authorities that can be applied to unionized employees. There is real management flexibility—where there is a written agreement between the union and the IRS.

I have heard references from some of our colleagues who say they are upset about our civil service provisions which basically protect existing law and ask for more reforms. They have cited the IRS as an example of what good can be done when an agency is given authority.

But, again, we gave the IRS authority to carry out management flexibilities with the written agreement of their employees' union, and it has worked. At the FAA, for instance, agency managers must bargain with Federal employee unions over wages, and also must negotiate with the unions in developing and making any changes to the agency's personnel management system.

So in some ways the IRS and the FAA follow much more of a private sector model today, which is very progressive, with lessening of civil service controls in certain areas, and with a corresponding increase of the role of unions and collective bargaining in establishing the terms and conditions of employment.

It is true that our legislation does not in fact go down that road, but of course neither does the administration's proposal for the Department of Homeland Security. Some of the proposals I have seen, from the White House and elsewhere, including from colleagues in the Senate, would empower the Secretary to cut back on the rights and roles that Federal employees and their unions would have at this new Department.

I have not seen a proposal from the administration for the Department that would replace civil service protections with an enhanced statutory role for collective bargaining and the unions. So I ask, why do administration supporters, on the floor in this debate, keep referring to the IRS and FAA precedents as though they were advocating anything like them now? If they were really advocating something like them, I think we might have the basis of a bipartisan agreement.

Let's give the Secretary of the Department of Homeland Security broad authority to enact further civil service reforms with the written agreement of the unions representing his or her employees. It has worked at the IRS and the FAA, and it might well work at the Department of Homeland Security.

As I said, President Bush does not seek to seriously reform the civil service system or make a solid business case for any new authorities. Instead, he really seeks to rip out big chunks of civil service law and to push that change through in the context of this urgent common cause of creating a new Department of Homeland Security.

Though the House, in its bill, has done a bit more homework, it still fails the test. The House bill states that several fundamental civil service provisions will apply to the new Department. Those include requirements to provide a preference in hiring and retention of veterans, which the President's proposal would eliminate; the protection of whistleblowers, which the President's proposal would eliminate; it prohibits nepotism, favoritism, and other forms of discrimination, which the President's proposal would eliminate; and it protects the right to unionize, which the President's proposal would also eliminate.

However, almost all of these rights are provided in name only in the House bill, unfortunately. In major areas, the House bill would then turn over, again, a blank check to this administration to waive or rewrite civil service protections and procedures, with the administration having given us no indication of how they will use this extraordinary power.

Second, the House bill states that employees would be able to join unions, but then allows the administration to unilaterally rewrite all the statutory rules of collective bargaining that give unionization whatever significance it has under existing Federal law.

Third, the House bill would also turn over power to the administration to rewrite other central elements of the civil service system, including performance appraisal, discipline, and job classification and pay. These aspects of civil service provide for fairness across Government, avoid destructive bidding wars among agencies, and provide employees protection, most importantly, against unfair, arbitrary, or discriminatory decisions. The House bill essentially throws out all of those.

Finally, under the House bill, as the proposed new rules are developed for the Department, the bill relegates union representatives to the role of receiving notice and making recommendations for the Secretary's consideration. This is far more constrained than the traditional function of unions, limited as they are under Federal law, which is to bargain over matters where management has discretion.

When Congress enacted legislation, again, allowing the FAA and IRS to develop alternative personnel rules, we specified that the unions would have a place at the bargaining table regarding those rules. That is fair, that is progressive, that is productive, and that is modern. The House provision limiting the role of employees and their representatives is unfair and unacceptable.

Finally, the choice before us on civil service is simple: Improve it or remove it. Make it better or rip it up. While our legislation lives up, in my view, to Congress's responsibility to improve the civil service system, the alternatives proposed by the administration and in the House bill don't meet that responsibility. They, to use a word familiar to us during this season, punt. They leave it all to the administration.

They would have Congress leave it all to the administration to rewrite the law.

That would be problematic in just about any realm, but it is particularly problematic here, as the administration represents management, one of the parties directly affected by the law.

Powers are strictly separated in our constitutional system for a reason. I have not hesitated to make clear that I believe the President, in his role as Commander in Chief, for instance, should have substantial powers to determine when and how we take military action to protect national security. But rewriting laws is the job of Congress, the responsibility of Congress. Indeed, the separation of powers is especially important in the case of civil service law, again, for the reason I have stated: Because the administration is the management, it is one of the two parties directly affected by the law. Congress, in effect, must play the role of a fair and honest mediator, broker, and legislator. Only Congress should change the law.

So we have two choices here: To embrace significant reforms, as included in our bill, and leave additional changes that may seem to be necessary, after some experience, for consideration in the future, based on a solid business case made by the Secretary is one choice. On the other hand, we can simply abdicate and give the administration the right to rewrite the current civil service system by administrative fiat. That, of course, is an easy choice for me.

Also, I would state, in response to the underlying amendment the Senator from West Virginia has proposed, what we have done here in civil service is very much similar to what we have done in most of the rest of the bill; that is, we have tried to dispatch Congress's responsibility to write the law, not to give the administration a blank check in any area, to respect the executive branch and the need for authority in the executive branch, but to understand that constitutionally we have the responsibility to legislate. That is exactly what we have done in a progressive fashion with regard to the civil service laws for our Federal workers.

I had not intended to speak on this this afternoon, but those of our colleagues who have come to speak not on the Byrd amendment but against the civil service provisions in the committee's proposal required a response on this day.

I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—H.R. 5093

Mr. REID. Mr. President, today we have tried to come up with some type of resolution of the fire suppression amendment that has been holding up this Interior appropriations bill for some time. We have been unable to do that. As a result of that—and I have spoken with Senator BYRD—I do not think the Interior appropriations bill is going to move forward.

Until there is some way to resolve that amendment, I ask unanimous consent that the order with respect to consideration of the Interior appropriations bill be modified so that the bill may be temporarily laid aside and that it recur upon the disposition of the homeland security bill.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I appreciate the frustration the assistant leader is going through at this moment trying to resolve an issue on the Interior appropriations bill about which he and I are concerned and move it forward and at the same time move homeland security forward.

Today we have worked to facilitate both of those bills, and I have encouraged the majority leader and the assistant leader to allow a vote on my amendment, which is pending on the Interior appropriations bill or, if not, a stand-alone vote, and then to allow a side by side, with their alternative, by a majority vote of either. That is not what they apparently want to do at this moment.

I do not want to see the Interior appropriations bill laid aside. We have critical fire money in the bill. We have critical drought money in the bill for agriculture. The Interior appropriations bill is very key to my State.

At the same time, we must bring this Senate together on some way of dealing with the crisis in our forests today that has resulted in devastating fires across the West. I feel very strongly about that. At the same time, I know the leader has worked hard to facilitate homeland security. Certainly it is very evident this side is not holding up that bill at this moment. We want the votes. We want to move the issue, deal with it, and get it to the President's desk before we adjourn or recess for the November elections. Under those considerations, dual track is important.

I say to the leader, give me a vote. Give me a vote on the Craig-Domenici amendment up or down—however. But I do believe we deserve a vote. I do believe it is critically important that the Senate of the United States express its will on a 6.5-million-acre loss to wildfire this year and thousands of homes and well over 25 lives. We must deal with the issue.

This situation has cost us—and I think Senator REID will agree—$800 million extra in this budget, to fight fires or to pay the debt of the fires that have already been fought. We will spend well over $1 billion of extra money this year. With that, I must object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I am disappointed in that I believe we need to move forward with homeland security and stop treading water on this Interior appropriations bill. The Interior appropriations bill is as important to Nevada as any appropriations bill we do. There are many provisions in this bill that will help Nevada, and other issues that are waiting to be approved by the two managers. I would love to have the Interior appropriations bill done.

For my friend, the distinguished Senator from Idaho, to say he wants a vote on his amendment, we agreed, more than a week ago, to have side-by-side amendments: their amendment, our amendment. There would have to be a 60-vote threshold because, whether we like it or not, the rules of the Senate are here, and on matters of importance—I should not say of importance. We have a lot of matters that are important that do not require 60 votes. Matters that are in controversy take 60 votes. This is one of those matters that are in controversy. We simply have to go forward on that basis. That is why we are unable to have a simple majority vote on their amendment or our amendment, because we cannot get 60 votes on our amendment and they cannot get 60 votes on their amendment.

It is hard for me to comprehend why, when just a few days ago we approved money for drought assistance, which received 79 votes. As we speak, ranchers and farmers throughout America are in deep need of these moneys, and until this legislation passes, they are not going to get that money. So those people who voted for that drought assistance are now preventing us from going forward.

That does not mean, Mr. President, if we get off this bill, we will not somehow be able to do the Interior appropriations bill. Maybe we can. Also, what it does not mean is, if we do not do the fire amendment, as my friend from Idaho thinks it should be done this year in this bill, that it will not be done in some other form, some other bill. I hope that as time goes on, we are going to be able to spend full time on homeland security. If we do not, it is going to be hard to finish that bill, especially if on the Interior appropriations bill we are treading water and accomplishing nothing. We have all these other appropriations bills we need to do.

I, frankly, see the picture very clearly. It seems to me the minority does not want us to pass any appropriations bills. They are looking forward to a continuing resolution. That may be what it comes to. That will be the decision of the two leaders. At least, if

they do not want to complete any appropriations bills, let us finish homeland security. We will not dual-track anything else if we do not want it. We will stay off the appropriations bills at least until we finish homeland security. If we have to spend a half a day every day doing nothing, it is going to be extremely hard to finish homeland security.

I spoke with the two managers of the bill yesterday. Both sides have amendments they want to offer. They are credible amendments. No one at this stage is trying to stall the bill. I think we would be well advised to do what the majority leader has indicated and vote to invoke cloture on this bill tomorrow. From the word I have received, that does not appear to be what the minority is going to let us do. Again, it requires 60 votes. We would take a simple majority vote on that. But that will not happen. Things do not work that way here. We require 60 votes on matters of controversy.

So unless my friend has more to say, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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 PRESIDING OFFICER (Mr. DAYTON). Without objection, it is so ordered.

AMENDMENTS NOS. 4554, 4599, 4623, 4552, 4588, AND 4563, EN BLOC

Mr. LIEBERMAN. Mr. President, I am pleased to report that Senator THOMPSON and I have been working with various other Members of the Senate, and we have reached agreement on a series of amendments that both sides have cleared.

Before I make the actual motion, I will indicate what they are. The first is amendment No. 4554 on behalf of Senators SARBANES, MIKULSKI, WARNER, and ALLEN, which would create within the Department of Homeland Security an office for national capital region coordination which would provide a single Federal point of contact to help integrate the plans and preparedness activities of the Federal agencies and entities in the District of Columbia with the efforts of State, local, and regional authorities in the Greater Washington area.

The second amendment is No. 4599 on behalf of Senators HARKIN and LUGAR. This amendment more effectively transfers the border inspection functions of the Animal and Plant Health Inspection Service to the new Department.

Next is amendment No. 4623, which would, on behalf of Senator THOMPSON and myself, add the E-Government Act of 2002 to this legislation. This would give the Federal Government the tools and structure to reform its information technology systems, one of the greatest vulnerabilities of agencies now tasked with homeland security missions. This E-Government Act, I note for the record, was originally cosponsored by Senator BURNS and many others. It is the result of months of productive negotiations with Senator THOMPSON and the administration.

Next is amendment No. 4552 on behalf of Senators CLINTON and SPECTER. This would require the Directorate of Critical Infrastructure Protection to assess the vulnerabilities of, identify priorities and support protective measures for and develop a comprehensive national plan to secure not only the critical infrastructure in the United States but also its key resources. This is an attempt to make clear that key resources include National Park sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States that they would likely or might possibly be identified as targets of terrorist attacks.

Also, amendment No. 4588, on behalf of Senator ROCKEFELLER, which consists of a series of technical changes to existing law to ensure that the Coast Guard members retain all of the benefits they are now entitled to under the Montgomery GI bill, once the Coast Guard is moved to the new Department.

And finally, amendment No. 4563, on behalf of Senators BAYH, SHELBY, and others, which would improve the protection of the Department of Defense storage depots for lethal chemical agents and munitions by strengthening temporary flight restrictions on the airspace near these depots.

I, therefore, ask unanimous consent that it be in order to consider the following amendments: 4554, 4599, 4623, 4552, 4588, and 4563, and that Senator THOMPSON be added as a cosponsor of amendment No. 4623; that these amendments be considered and agreed to, and that the motions to reconsider be laid upon the table.

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

The amendments were agreed to, as follows:

AMENDMENT 4554

(Purpose: To create an Office of National Capital Region Coordination within the Department of Homeland Security)

On page 114, between lines 20 and 21, insert the following:

SEC. 141. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Homeland Security Liaison Officers for Maryland, Virginia, and the District of Columbia within the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

AMENDMENT NO. 4599

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 4623

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 4552

(Purpose: To identify certain sites as key resources for protection by the Directorate of Critical Infrastructure Protection, and for other purposes)

On page 67, insert between lines 15 and 16 the following:

In this subsection, the term ''key resources'' includes National Park Service sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States and so heavily visited by the American and international

public that such sites would likely be identified as targets of terrorist attacks, including the Statue of Liberty, Independence Hall and the Liberty Bell, the Arch in St. Louis, Missouri, Mt. Rushmore, and memorials and monuments in Washington, D.C.

AMENDMENT NO. 4588

(Purpose: To amend various laws administered by the Secretary of Veterans Affairs to take into account the assumption by the Secretary of Homeland Security of jurisdiction of the Coast Guard)

At the end of subtitle D of title I, add the following:

SEC. 173. CONFORMING AMENDMENTS REGARDING LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) TITLE 38, UNITED STATES CODE.—

(1) SECRETARY OF HOMELAND SECURITY AS HEAD OF COAST GUARD.—Title 38, United States Code, is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security'' in each of the following provisions:

(A) Section 101(25)(D).

(B) Section 1974(a)(5).

(C) Section 3002(5).

(D) Section 3011(a)(1)(A)(ii), both places it appears.

(E) Section 3012(b)(1)(A)(v).

(F) Section 3012(b)(1)(B)(ii)(V).

(G) Section 3018A(a)(3).

(H) Section 3018B(a)(1)(C).

(I) Section 3018B(a)(2)(C).

(J) Section 3018C(a)(5).

(K) Section 3020(m)(4).

(L) Section 3035(d).

(M) Section 6105(c).

(2) DEPARTMENT OF HOMELAND SECURITY AS EXECUTIVE DEPARTMENT OF COAST GUARD.—Title 38, United States Code, is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security'' in each of the following provisions:

(A) Section 1560(a).

(B) Section 3035(b)(2).

(C) Section 3035(c).

(D) Section 3035(d).

(E) Section 3035(e)(1)(C).

(F) Section 3680A(g).

(b) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—The Soldiers' and Sailors' Civil Relief Act of 1940 is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security'' in each of the following provisions:

(1) Section 105 (50 U.S.C. App. 515), both places it appears.

(2) Section 300(c) (50 U.S.C. App. 530).

(c) OTHER LAWS AND DOCUMENTS.—(1) Any reference to the Secretary of Transportation, in that Secretary's capacity as the head of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Secretary of Homeland Security.

(2) Any reference to the Department of Transportation, in its capacity as the executive department of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Department of Homeland Security.

AMENDMENT NO. 4563

(Purpose: To improve the protection of Department of Defense storage depots for lethal chemical agents and munitions through strengthened temporary flight restrictions)

On page 211, between lines 9 and 10, insert the following:

TITLE VI—STRENGTHENED TEMPORARY FLIGHT RESTRICTIONS FOR THE PROTECTION OF CHEMICAL WEAPONS STORAGE DEPOTS

SEC. 601. ENFORCEMENT OF TEMPORARY FLIGHT RESTRICTIONS.

(a) IMPROVED ENFORCEMENT.—The Secretary of Defense shall request the Administrator of the Federal Aviation Administration to enforce temporary flight restrictions applicable to Department of Defense depots for the storage of lethal chemical agents and munitions.

(b) ASSESSMENT OF USE OF COMBAT AIR PATROLS AND EXERCISES.—The Secretary shall assess the effectiveness, in terms of deterrence and capabilities for timely response, of current requirements for carrying out combat air patrols and flight training exercises involving combat aircraft over the depots referred to in such subsection.

SEC. 602. REPORTS ON UNAUTHORIZED INCURSIONS INTO RESTRICTED AIRSPACE.

(a) REQUIREMENT FOR REPORT.—The Administrator of the Federal Aviation Administration shall submit to Congress a report on each incursion of an aircraft into airspace in the vicinity of Department of Defense depots for the storage of lethal chemical agents and munitions in violation of temporary flight restrictions applicable to that airspace. The report shall include a discussion of the actions, if any, that the Administrator has taken or is taking in response to or as a result of the incursion.

(b) TIME FOR REPORT.—The report required under subsection (a) regarding an incursion described in such subsection shall be submitted not later than 30 days after the occurrence of the incursion.

SEC. 603. REVIEW AND REVISION OF TEMPORARY FLIGHT RESTRICTIONS.

(a) REQUIREMENT TO REVIEW AND REVISE.—The Secretary of Defense shall—

(1) review the temporary flight restrictions that are applicable to airspace in the vicinity of Department of Defense depots for the storage of lethal chemical agents and munitions, including altitude and radius restrictions; and

(2) request the Administrator of the Federal Aviation Administration to revise the restrictions, in coordination with the Secretary, to ensure that the restrictions are sufficient to provide an opportunity for—

(A) timely detection of incursions of aircraft into such airspace; and

(B) timely response to protect such agents and munitions effectively from threats associated with the incursions.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the actions taken under subsection (a). The report shall contain the following:

(1) The matters considered in the review required under that subsection.

(2) The revisions of temporary flight restrictions that have been made or requested as a result of the review, together with a discussion of how those revisions ensure the attainment of the objectives specified in paragraph (2) of such subsection.

AMENDMENT NO. 4623

Mr. LIEBERMAN. Mr. President, I would like to make some additional comments regarding the inclusion of amendment number 4623 in this legislation.

The E-Government Act of 2002 is vitally needed to enhance our homeland security, and is directly relevant to the goal of ensuring improved homeland security. The bipartisan bill, originally cosponsored by Senator BURNS, is the result of months of productive negotiations with Senator THOMPSON and the administration. It passed the Senate as S. 803 by unanimous consent in June. The Committee on Governmental Affairs produced an extensive report, Report No. 107–174, to which I refer my colleagues for more information about the bill.

The E-Government Act will give the Federal Government the tools and structure to transform its IT systems, one of the greatest vulnerabilities of agencies now tasked with homeland security missions. As we've seen through dozens of depressing revelations over the last year, we have a desperate need for more effective and systematic information sharing between agencies like the FBI, CIA, Department of State, the INS, and state and local authorities. The E-Government Act will help the federal government get that job done, by establishing more effective IT management, establishing mandates for action, and authorizing funding.

The bill will also substantially enhance the ability of the Federal Government to quickly provide information and services to citizens to help them prepare for, and respond to, terrorism, natural disasters, and other homeland threats. In the hours and days after the terrorist attacks of September 11, Americans flooded Government's websites in record numbers, seeking information more targeted than what the media was providing: what was happening; how they should respond to protect themselves from possible future attacks; how they could help victims; and how people who were victims themselves could seek assistance. The E-Government Act will substantially enhance the ability of the Federal Government to quickly provide information and services to citizens to help them prepare for, and respond to, terrorism, natural disasters, and other homeland threats.

Finally, the bill will make permanent the Thompson-Lieberman Government Information Security Reform Act, which is about to expire. Weak computer security has been a widespread problem in the Federal Government, with potentially devastating consequences. In response, the Senate passed this important information security legislation last Congress, but that legislation is scheduled to expire in November.

I thank the Chair, Senator THOMPSON, staff, and all others who have cooperated to allow us to move forward with these amendments. Noting my friend and colleague on the floor whom we all welcome back to Washington after some surgery, he looks younger and more knowledgeable than ever, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise to commend my chairman, Senator LIEBERMAN, for his outstanding work and his extraordinary leadership in the

committee, and to mention that it was after Senator LIEBERMAN began his initiative to create such a Department that it began to pick up, not only in the Senate but with the administration, too. He has crafted, I believe, a strong piece of legislation for the Department of Homeland Security.

This evening I rise to express my strong support for Senator LIEBERMAN's substitute. I have strong respect for the senior Senator from West Virginia but I will vote against his amendment. Senator LIEBERMAN has done a great service to his country by holding hearings and debating extensively the structure of a Department of Homeland Security. Without his determined effort, the President might never have conceded the need for such a department. As Senator THOMPSON has noted, the Governmental Affairs Committee debated in great deal the structure of such a department. Numerous changes were made to the President's proposal which have substantially improved it.

I rise to discuss the flexibilities available at the Federal Aviation Administration and the Internal Revenue Service. My colleagues have criticized the legislation before us for not providing the same flexibilities available to the FAA and the IRS. The most important factor in the personnel systems at these two agencies is the involvement of federal employee unions.

In April 1996, at Congressional direction, FAA was allowed to develop its own personnel and compensation systems, to give the agency more flexibility because of its daily interaction with the fast-paced and rapidly-growing aviation industry. The Secretary of Transportation argued strongly that the agency needed flexibility to pay people what the job required and to move them where the work was needed, without the restrictions of standard government personnel procedures.

While the FAA was given wide authority to develop their personnel system, the FAA still must negotiate with its federal employee unions in developing and making changes to the personnel management system. The FAA system contains provisions protecting a large portion of the rights of federal workers. These include whistleblower protections, including the provisions for investigation and enforcement; veterans' preference; anti-discrimination; compensation for work injury; retirement, unemployment compensation, and insurance coverage; and review of employee matters by the Merit Systems Protection Board.

In addition, employees subject to major adverse personnel actions may contest the action through any contractual grievance procedure.

And because the FAA is not subject to federal pay rate regulations, the federal employee unions are allowed to bargain over wages at the FAA as they do in the private sector.

Such bargaining rights are not provided in the President's original Homeland Security bill or the House passed bill. In fact, both bills would allow even current collective bargaining rights to be waived.

Despite this praise of FAA flexibility, just last year, the Republican-led House Appropriations Committee concluded that FAA's personnel reform has been a failure. At that time, the most recent FAA employee attitude survey showed severe levels of employee dissatisfaction, even as compensation levels rose to make DOT the highest-paid cabinet level agency in the Federal Government.

Fewer than one in ten employees felt that personnel reform had been successful at eliminating bureaucracy or helping accomplish FAA's mission. Fewer than one in five felt the agency rewards creativity and innovation—even though personnel reform allows the agency great flexibility in this area.

A review of staffing at air traffic control facilities indicates that reform has not been used to place employees where they are needed. These findings were supported by an independent study conducted by the National Academy of Public Administration, which found that FAA hasn't met many of the key goals of personnel reform.

In addition, the House Committee believed that Congress should carefully review the effects of personnel reform leading up to reauthorization of AIR 21 in fiscal year 2004 to gauge whether the experiment should be continued.

According to the GAO, the decentralized personnel structure that resulted from FAA's reform has caused moral problems, communication gaps and inconsistencies in technical advice and leadership within FAA organizations, and insufficient understanding throughout the workforce about the intent of reforms. As a result of these problems, FAA lacks a broad base of support and accountability for reform initiatives among employees below the highest management levels.

More recently, TSA, which uses the FAA's pay banding system, has caused great concern with the high salaries given to federal law enforcement officers that are higher than those currently earned at other federal agencies. Such a system has contributed to the loss of law enforcement officers at the Capitol Police, the U.S. Park Police and the U.S. Secret Service.

The IRS was granted additional flexibilities to address its unique workforce as well. The IRS personnel flexibilities include: critical pay authority; enhanced recruitment, retention, and relocation authority; enhanced authority for performance awards to senior executives; and exceptions to Title 5 rules in filling Senior Executive Service positions which are reserved for career employees.

Additional flexibilities are granted to the IRS which can only be applied to union represented employees subject to a written agreement between the union and the IRS. This includes streamlined demonstration project authority; variations to the performance appraisal and awards sections of Title 5; variations from Title 5 pay and classification systems for pay banding; and variations from Title 5 hiring rules.

However, the IRS' progress on reform seems welcome to all but those who work inside the agency. In response to the agency's 2001 employee climate survey, 42 percent of employees said the organizational changes have had a negative effect on them, compared with 24 percent who reported positive effects and 34 percent who reported no effect. Such dissatisfaction does nothing to help retain employees when the federal government is facing a human capital crisis.

While there has been an increase in customer satisfaction with the IRS, the widespread personnel reshuffling has yet to guarantee that the IRS is matching its workforce to its workload appropriately. Over the past four years, the backlog of taxpayer requests for compromise settlements with the IRS on the amount of back taxes they owe tripled, even though the staff devoted to the backlog has doubled. A General Accounting Office review found that putting staff on the compromise program may be hurting other collection programs. The large percentage of bad information given to taxpayers by IRS employees also shows that the right people with the right skills are not in place in customer service jobs—though the IRS is retraining customer service representatives to improve accuracy.

As we are debating the creation of a new Department of Homeland Security, we must make sure that providing new flexibilities does not compromise the mission of the agency. In providing the agency with the tools to effectively manage their workforce, we must make sure that agencies have a strategy in place to meet their missions and keep employees satisfied. If our dedicated workers do not feel valuable to the agency, the mission will fail. Without sufficient union participation and civil service protections, our homeland will not be secure.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. 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.

BUDGET SCOREKEEPING REPORT

Mr. CONRAD. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended.

This report shows the effects of congressional action on the 2002 budget through September 11, 2002. The estimates, which are consistent with the technical and economic assumptions of H. Con. Res. 83, the Concurrent Resolution on the Budget for fiscal year 2002, show that current level spending in 2002 is below the budget resolution by $12.1 billion in budget authority and by $18.8 billion in outlays. Current level revenues are below the revenue floor by $0.4 billion in 2002.

I ask unanimous consent to print the following in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 13, 2002.

Hon. KENT CONRAD,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached tables show the effects of Congressional action on the 2002 budget and are current through September 11, 2002. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 83, the Concurrent Resolution on the Budget for Fiscal Year 2002.

Since my last report dated May 22, 2002, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2002: the Mychal Judge Police and Fire Chaplains Public Safety Officer Benefits Act of 2002 (P.L. 107–196), the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (P.L. 107–206), and the Trade Act of 2002 (P.L. 107–210). The effects of these actions are identified in Table 2. At the request of the Budget Committee, the funds designated as contingent emergencies in P.L. 107–206 have been removed from current level. The President announced that these funds will not be released.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Cippen, Director.)

Attachments.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2002, AS OF SEPTEMBER 11, 2002

[in billions of dollars]

	Budget resolution	Current level [1]	Current level over/under (−) resolution
On-budget:			
Budget authority	1,705.3	1,693.2	−12.1
Outlays	1,652.8	1,634.0	−18.8
Revenues	1,629.2	1,628.8	−0.4
Off-budget:			
Social Security outlays	356.6	356.6	0.0
Social Security revenues	532.3	532.3	0.0

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2002, AS OF SEPTEMBER 11, 2002

[in millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a.	n.a.	1,671,726
Permanents and other spending legislation	991,545	943,568	n.a.
Appropriation legislation [1]	1,008,487	996,258	n.a.
Offsetting receipts	−322,403	−322,403	n.a.
Total, enacted in previous sessions	1,677,629	1,617,423	1,671,726
Enacted this session:			
An act to amend the Higher Education Act of 1965 to establish fixed interests rates (P.L. 107–139)	−195	−180	0
Job Creation and Worker Assistance Act of 2002 (P.L. 107–147)	6,049	5,820	−42,526
Farm Security and Rural Investment Act of 2002 (P.L. 107–171)	2,464	1,610	0
Clergy Housing Clarification Act of 2002 (P.L. 107–181)	0	0	*
Mychal Judge Police and Fire Chaplains Public Safety Officer Benefits Act of 2002 (P.L. 107–196)	2	2	0
2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (P.L. 107–206)	25,317	7,938	0
Trade Act of 2002 (P.L. 107–210)	84	24	−416
Total, enacted this session	33,721	15,214	−42,942
Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	−18,119	1,389	n.a.
Total current level	1,693,231	1,634,026	1,628,784
Total budget resolution	1,705,311	1,652,820	1,629,200
Current level over budget resolution	n.a.	n.a.	n.a.
Current level under budget resolution	12,080	18,794	416
Memorandum: Emergency designations for bills in this report	54,963	37,825	39,465

[1] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Note.—n.a. = not applicable; P.L. = Public Law; * = less than $500,000.

Source: Congressional Budget Office.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. 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 April 13, 2002 in Temecula, CA. Two black women were assaulted in a restaurant parking lot. The assailants, described as a group of drunken white men, surrounded the victims' car, pounded dents into it, taunted the women with racial slurs, and attacked one of them physically, ripping her clothing.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NEW ADMINISTRATION REGULATIONS TO CUT SERVICES TO VETERANS

Mr. ROCKEFELLER. Mr. President, I rise today to speak about the latest action by the Administration to cut services to veterans.

For years when we looked at the health care budget, we focused on the declining veteran population and declining demand. We are in a totally different predicament today. More veterans are turning to the VA health care system, and that is a success story. In recent months, however, unacceptably long waiting times for care have materialized. Cutting services to veterans who now depend more upon VA, is a perverse reaction to the problem.

In 1996, Congress enacted eligibility reform which allowed all veterans to come to the VA health care system. At the time, I spoke about the dilemma that we would face in opening up the doors and providing a rich benefit package and how, down the road, we would have to face the consequences.

In my view, the administration has a choice: Either own up to the demand for health care services and provide funding—my preference—or manage enrollment. The administration has chosen a completely different course.

In its budget request, the administration proposed charging a $1,500 deductible to higher-income veterans as a means to ''reduce demand.'' In July, VA issued a mandate prohibiting all enrollment-generating activities, such as health fairs. Yesterday, regulations

were issued to require VA to give priority for health care services to veterans with service-connected conditions. No veteran who is enrolled with VA for health care should have to endure long waiting times for care.

The administration's latest action changes the way veterans access health care services, and in doing so, not only circumvents current law regarding eligibility for care, but will also create serious hardship for hundreds of thousands of veterans who depend upon VA. These regulations should be rescinded. Today, several other Senators and I wrote to the President and asked that he do so.

These regulations will almost certainly increase—rather than decrease—the waiting times facing hundreds of thousands of veterans. Let me repeat that: The recent regulations will do nothing for the more than 300,000 veterans waiting to be seen by VA clinicians, and in fact, the new priority system could more than double the time they are forced to wait for care. I ask unanimous consent that VA's list of waiting times be printed in the RECORD.

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

Survey conducted July 1, 2002.

Data was gathered from multiple clinics at all VA facilities. The data sources included Excel spreadsheets and manual lists as well as the scheduling package for those waiting 6 months or greater for an appointment. Because the survey was derived primarily from manual data collection, patients waiting at more than one site may be counted more than once; the data could also reflect the same patient waiting for multiple clinics at one specific site. Therefore, the data should be viewed as an indicator of an overall problem. We are working on automating the wait list to ensure more accurate reporting.

Veterans integrated service network	A Number of new enrollees waiting for first clinic appointment to be scheduled	B Number of established patients waiting to be scheduled for follow-up primary care or specialty care clinic appointments and new and established patients with appointments scheduled electronically, although the wait is 6 months or greater
1	9,891	12,130
2	460	1,844
3	82	2,448
4	18,535	8,061
5	0	217
6	0	29,124
7	4,662	3,299
8	31,469	22,474
9	11,093	7,887
10	13	1,239
11	1,172	2,562
12	8,922	9,424
15	1,283	6,616
16	5,490	8,126
17	1,874	17,444
18	0	4,471
19	8,230	9,342
20	8,891	15,702
21	1,013	5,015
22	0	3,810
23	19,198	6,471
Totals	132,278	177,976

Col A: Number of new enrollees waiting for first appointment where an appointment has not been scheduled. Represents a manual count of Veterans who have enrolled and requested an appointment but the Veteran's preferred site of care cannot schedule the appointment within six months. Therefore, the veteran is placed on a wait list. An electronic wait list is being developed that will allow for more accurate data collection.

Col B: Number of established patients on a wait list or new and established patients scheduled for appointments requiring a wait of 6 months or more. Includes: (1) a manual count of established patients (patients have been seen at least once) who are on a wait list (cannot be scheduled within 6 months) for follow-up care for a Primary Care Clinic or Specialty Care Clinic visit. (Examples would include veterans waiting for reassignment to a new Primary Care Provider, or patients waiting for consults in Specialty Care Clinics.) Also includes (2) a count of Veterans scheduled electronically for appointments, however the wait time meets or exceeds six months. (This also includes those patients who have either voluntarily canceled their appointments or had their appointment canceled by the VA.)

Note: This data includes approximately 80 percent of VHA's workload. All Primary Care Clinics are included and 5 major Specialty Care Clinics (eye, urology, cardiology, orthopedics, audiology). The electronic wait list capability will allow for additional clinics to be included.

Mr. ROCKEFELLER. The Paralyzed Veterans of America, too, is very concerned about these new regulations, as the new system ''completely ignore[s] the other key missions of the VA health care system to care for the poor and medically indigent and those veterans with special disabilities such as spinal cord dysfunction, blindness, and mental illness.'' I ask unanimous consent that the full text of PVA's letter be printed in the RECORD.

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

PARALYZED VETERANS OF AMERICA,
Washington, DC, September 13, 2002.

Hon. JOHN D. ROCKEFELLER, IV,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN ROCKEFELLER: On behalf of the Paralyzed Veterans of America (PVA), I am writing to express our grave concerns over the attempts by the Department of Veterans Affairs (VA) to move forward with an interim final rule that has insufficient statutory grounding.

VA Secretary Anthony Principi has proposed an interim final rule dispensing with notice-and-comment requirements under the Administrative Procedures Act. These fast track regulations dramatically alter existing eligibility for VA health care services. Faced with woefully inadequate funding requests from the Bush Administration and the Congress for the veterans' health care system, the new regulations would give hospital administrators the authority to ration care by establishing a priority for treatment for certain veterans with service connected disabilities. Veterans with service connected disabilities rated 50 percent and above and veterans seeking care for their service connected disabilities would get access to treatment before any other veteran is served. No one can argue that service-connected disabled veterans do not deserve the highest priority for veterans benefits and services. However, by allowing admitting clerks to give them front-of-the-line access, the regulations inherently give these same clerks the authority to deny care to veterans in other categories when budgets remain tight. This is the real intent of the proposed regulations, and we believe, contrary to VA opinions, that the VA lacks the statutory authority to deny care to higher-priority veterans in lieu of the Secretary's granted authority to disenroll lower-priority veterans.

PVA, along with every other major veterans service organization worked for nearly a decade to enact legislation that would standardize veterans' eligibility for health care services. Prior to enactment of eligibility reform legislation in 1996, access to health care services was governed by a fragmented bureaucratic tangle of regulations governed primarily by fiscal considerations. Some veterans could get some services; some veterans could get others but only under certain circumstances and under certain conditions governed in part by veteran status, not health care need. The veterans organizations argued that such a system was unfair, did not provide the optimal health care services needed by veterans, was a bureaucratic nightmare and, more importantly, was medically unethical.

Eligibility reform legislation brought simplicity to the process. Veterans would be enrolled in the system based on veterans status and economic need in seven categories. Once enrolled, each veteran was entitled to the complete VA health benefits package on an

equal basis. This was not only good policy; it was good medicine. Veterans with service-connected disabilities were included in the highest enrollment categories to ensure complete and speedy access to the system. In fact, because of their service-connected disabilities they were even exempted from enrollment requirements. If these high-priority veterans are having difficulty accessing VA health care now, as the Secretary has stated, then the problem lies in the inability of the Administration to fund the VA properly and the incompetence of VA admitting clerks who ignore current eligibility law and the high priority these veterans already have. Both of these problems should be rectified without the institution of new regulations. The $275 million in emergency supplemental funding that the White House refused to allocate to the VA last month could have gone a long way to ease the burden on the system. The re-characterization of health care access in the proposed regulations is a major step backward toward the chaos that existed in the pre-eligibility reform days.

There is no question that the VA is grossly overburdened. A product of its own success, the system, because of the quality and accessibility of the health care services it provides, has attracted unprecedented numbers of new veteran users. While eligibility reform has been blamed for opening the gates to the system, the real cause of this influx of patients are the new health care markets VA has established by opening 800 outpatient clinics across the country. Among other factors are a private health insurance system that is pricing itself out of reach of most Americans and a Medicare plan that ignores the need for a quality prescription drug benefit for seniors and people with disabilities.

VA is pulling in the reins, attempting to ration care and dissuade veterans from coming into the system. These new regulations are only one attempt. We are certain to see other proposals in the months ahead. But if we go down the road of pitting one group of veterans in the health care queue against other groups of veterans where does it stop? These regulations completely ignore the other key missions of the VA health care system to care for the poor and medically indigent and those veterans with special disabilities such as spinal cord dysfunction, blindness and mental illness. With these regulations in place a hospital administrator could logically ignore these responsibilities as well in contravention of direct statutory requirements.

Finally, we seriously question the VA's opinion that is has sufficient authority under existing statutes to move forward with these interim final rules. The VA's sophistical argument ignores the plain language of the statute providing the VA limited flexibility in managing the enrollment system established by Congress in 1996.

All in all, we do not see why veterans should be denied an accessible, quality health care product just because it is unattainable or unaffordable elsewhere, and the Administration and the Congress do not want to come up with the dollars to fund it adequately.

Sincerely,

DELATORRO L. MCNEIL,
Executive Director.

Mr. ROCKEFELLER. Finally, Mr. President, we have seen a rush by the Administration to implement these new regulations, without the normal comment period for Congress, veterans, or veterans advocates to make their views known. I believe VA's finding, that it has ''good cause'' to dispense with a normal notice-and-comment period, is without factual merit. If an emergency situation exists, the Administration could have surely provided the $270 million in additional funds which Congress already appropriated to deal with the unacceptably long waiting times.

We must work together to find a better solution for veterans and these regulations must be rescinded to protect access to care for all veterans.

RESCUE OF MINEWORKERS BY FMC

Mr. THOMAS. Mr President, I know all of us in this Chamber shared in the profound sense of relief and elation which accompanied the heroic rescue of nine mineworkers from the Quecreek Mine near Somerset Pennsylvania earlier this summer. It was truly a remarkable story which combined the very best of the human spirit with the most modern mine safety and rescue technologies and produced nothing short of a miracle.

Somewhat lost in the press accounts after the rescue was the role played by the Mine Safety and Health Administration which sent 70 of its own employees to Somerset to assist in the rescue. One of MSHA's important missions is to prepare mineworkers and local health and safety officials for responding to the sort of near disaster that we witnessed last month. The rescue in Pennsylvania was no accident. It was the result of thousands of man-hours dedicated to salvaging the best from the worst. We all saw firsthand how it works.

I am very proud to be able today to recognize that a group of individuals from my own state has won this year's National and International Mine Rescue Contest. The Mine rescue competitions are designed to test the knowledge of miners who might be called upon to respond to a real mine emergency. The contest requires six-member teams to solve a hypothetical mine emergency problem—such as a fire, explosion or cave in—while judges rate them on their adherence to mine rescue procedures and how quickly they complete specific tasks.

This year a team from Green River Wyoming, representing FMC Corporation, which operates a mine in my state, won this prestigious competition. I would like to recognize the individuals who are part of this number 1 team: Bob Knott, Alan Jones, Rick Owens, Leroy Hutchinson, Glen Weinmaster, Dave Thomas, Melvin Lovato, Robert Pope, Bill Oleson, Bob Robison, Tony Herrera, John Key, Rod Knight, Mike Padilla and David Hutchinson.

We pray that this outstanding team will never have to put into practice what it has trained to do over countless hours. However, it is also encouraging to know that such teams are deployed throughout mining country and stand ready to perform the sorts of heroic feats that we all witnessed a few weeks ago in Pennsylvania and coal country.

All of us in Wyoming are very proud of the accomplishments of the FMC Mine Rescue Team and salute all of those involved in the mining industry for their dedication to safety.

ADDITIONAL STATEMENTS

TRIBUTE TO BRADY HOWELL

• Mr. CRAIG. Mr. President, the terrorism of September 11 changed America forever, and it profoundly changed Americans, as well. The people we lost left behind legacies, the compilation of the meaningful things they accomplished throughout their lives, actions and words that still touch their friends and families after their deaths. Those legacies inspire all of us with the bravery and courage of the human spirit, and also remind us of the precious frailty of life.

Brady Howell lost his life in the attack on the Pentagon. This letter, written by Brady's brother Carson Howell to commemorate the one year anniversary of that terrible event, articulates the legacy Brady left behind. I would like to enter this letter into the CONGRESSIONAL RECORD so all my colleagues can remember the great example these Americans are to us. In the words of Carson Howell, ''The men and women who perished that day are not heroes because of how they died; they are heroes because of how they lived.''

Let me read the letter in its entirety:

Today is a sad day for our family. Not just our family, but also families just like the Vauk family, the Conaty family, the Andrews family, and thousands of others. It's a sad day for our American family as we all remember and pay tribute to the thousands of friends, family, and fellow Americans that lost their lives one year ago today. It's a day that many will remember as the day we learned that heroes aren't found only in comic books. No, there are heroes greater than Superman and my brother is one of them.

Brady Kay Howell loved this country. He was an Eagle Scout. He loved children and taught the youth in Sunday School classes while living in New York and later Virginia. He loved his family and actually had plans to return to Idaho that following weekend for a welcome home party for my parents and for my wedding reception. He loved his wife, Liz, to whom he'd been married for only five short years.

Brady was working in naval intelligence as an intern. Shortly before his death, he and I had a telephone conversation. In it he told me that one of his goals in his life was to have top-secret clearance. I'm proud to say that he accomplished that goal.

I could go on and on about how great my brother was. But, if it were he speaking here today, he wouldn't use this opportunity to speak of his accomplishments. I believe that he would talk about service. He would talk about what a great country this is that we live in and how proud he was to serve and protect all of us.

The work that Brady and many others did that died that day was for all of us. Brady prepared briefings for the Chief of Naval Intelligence and other high-ranking officials so

that they could best be informed of how to protect us the American public. Everyday he was protecting our country. Everyday he was fighting for our freedoms that we enjoy. To Brady, it didn't matter how much money you had, it didn't matter what the color of your skin was, it didn't matter which religion you believed. To Brady, what mattered were the people.

Ongoing community service initiatives to commemorate Brady's commitment to public service are being conducted in the Washington, DC area and there are plans for at least one such initiative in Utah. Generous contributions from all over the country have allowed us to create an endowed memory in Brady's name to continue the influence of his story. These contributions will also support an endowed lecture series in Brady's name that has been established and now approved by the BYU-Idaho Board of Trustees.

I miss Brady very much. I remember with fondness building bases and battling with our G.I. Joe action figures, waking up early Saturday morning to watch the Bugs Bunny and Tweety Show together, and climbing trees together. I always looked up to Brady and for me, he was always a hero. As his story is told, others are hearing about the hero whom I was privileged enough to call ''brother''.

September 11th wasn't the first day that this country has known heroes, nor has it been the last. We should take this time to pay tribute not only to the heroes of September 11th, but all of the heroes that have fought for freedom. Thousands of men and women are working today to protect us from evil. The men and women who perished that day are not heroes because of how they died; they are heroes because of how they lived. Heroes are the men and women who have put themselves in harms way for the cause of democracy and freedom since long before September 11, 2001. Heroes are the men and women who serve each day to protect people they will never know. Heroes are the men and women who spend more waking hours caring for and about others than they do for themselves. Let us remember the heroes of September 11th 2001, along with the heroes who stood before, who stand now, and who are preparing to stand against evil. Because it is to all of you who have served this country, have given your children for the service of America, and are currently serving that we, the American people, pay tribute this day; the fire fighters, the police officers, the emergency medical crews, and the soldiers of freedom.

If the mark of a hero is one that cares about and fights for others, I hope that the destruction of September 11th has facilitated the construction of tomorrow's heroes. Wouldn't the greatest honor that we could pay to those that perished be if we could follow their example and give of ourselves as they did? We may not be called upon to die for this country, but we are all called upon to live for it. This country doesn't need more martyrs, but this country could use more doers.

Tens of thousands have given their time and tens of thousands have given their lives for America; this ''one nation, under God, indivisible, with liberty and justice for all.'' To be ''one nation'', we need to be one state, one neighborhood, one home. Let us rededicate ourselves as we did after September 11th, to being Americans. Never in my life before September 11th, had I seen such a display and attitude of patriotism. We were friendlier, we were more patient, and we looked out for each other. I wish that those who died that day could have seen the America that we became. We became strong and united. We showed forth the America that we always should have been; the America that those men and women sacrificed their lives for. Let us honor all of the heroes of America by not letting their sacrifices be in vain. Let us continue their legacies. Let us live for what they died for The United States of America.●

RECOGNITION OF THE ENTERPRISE FOUNDATION'S 20TH ANNIVERSARY

● Ms. MIKULSKI. Mr. President, I rise today to recognize The Enterprise Foundation as it celebrates its 20th year of rebuilding America's communities and creating opportunities for low-income people across America.

The Enterprise Foundation was founded in 1982 by renowned developer James Rouse and his wife, Patty, who were inspired by the commitment of members of the Church of the Saviour in Washington, D.C. to create safe housing in one of the most challenged neighborhoods in the District.

More than 65,000 hours of volunteer time and $500,000 in grants were invested to clean out rats and garbage and to repair, paint and correct more than 940 housing code violations to create those first 90 apartments affordable to low-income families.

Since that humble start, Enterprise has grown to become a national nonprofit with offices in 16 cities, five subsidiaries and a staff of more than 450. Enterprise works with private sector and public partners through a network of more than 2,200 community-based organizations in 820 U.S. locations to provide affordable housing, safer streets and access to jobs and quality child care.

Since 1982, The Enterprise Foundation has raised and committed more than $3.9 billion in equity, loans and grants to build or renovate more than 132,000 homes affordable to low- and very low-income people. Since its creation in 1985, Enterprise Homes has completed more than 4,000 homes for low- and moderate-income families totaling more than $350 million in total development. Enterprise has partnered with more than 170 corporate investors and more than 580 nonprofit and for-profit developers to provide affordable homes for families, the elderly and people with special needs.

Enterprise's job training and placement programs have helped more than 32,000 low-income residents qualify for work and retain employment. More than 4,500 children have benefited from the Home-Based Child Care Program. Enterprise Child Care has awarded more than $4.5 million in grants and loans since 1999.

My own State of Maryland has benefited greatly from the work of the Enterprise Foundation. I have personally seen the results of the Enterprise Foundation's work in the Druid Heights, Lauraville and Garrison/Forest Park neighborhoods in Baltimore. Their comprehensive approach to neighborhood redevelopment is what makes Enterprise an asset in Maryland, and in the Nation.

Today I ask that we pay tribute to Mr. Rouse's legacy and to the profound impact that The Enterprise Foundation has had on the lives of thousands of low-income Americans and their communities.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:04 a.m., a message from the House of Representatives delivered by Ms. Niland, one if its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1834. An act for the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1784. An act to establish an Office on Women's Health within the Department of Health and Human Services, and for other purposes.

H.R. 2245. An act for the relief of Anisha Goveas Foti.

H.R. 4102. An act to designate the facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, as the ''Rollan D. Melton Post Office Building''.

H.R. 5333. An act to designate the facility of the United States Postal Service located at 4 East Central Street in Worcester, Massachusetts, as the ''Joseph D. Early Post Office Building''.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 435. Concurrent resolution expressing the sense of the Congress that the therapeutic technique known as rebirthing is a dangerous and harmful practice and should be prohibited.

H. Con. Res. 469. Concurrent resolution authorizing the Rotunda of the Capitol to be used on September 19, 2002, for a ceremony to present the Congressional Gold Medal to General Henry H. Shelton (USA, Ret.).

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3253) to amend title 38, United States Code, to provide for the establishment within the Department of Veterans Affairs of improved emergency medical preparedness, research, and education programs to combat terrorism, and for other purposes, with an amendment.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4687) to provide for the establishment of investigate teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

ENROLLED BILLS SIGNED

At 3:14 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2810. An act to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.

H.R. 3880. An act to provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

MEASURE REFERRED ON SEPTEMBER 17, 2002

The following measure, having been reported from the Committee on Energy and Natural Resources, was referred to the Committee on Indian Affairs, pursuant to the order of March 14, 2002.

S. 2018. A bill to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1784. An act to establish an Office on Women's Health within the Department of Health and Human Services, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

H.R. 2245. An act for the relief of Anisha Goveas Foti; to the Committee on the Judiciary.

H.R. 4102. An act to designate the facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, as the ''Rollan D. Melton Post Office Building''; to the Committee on Governmental Affairs.

H.R. 5333. An act to designate the facility of the United States Postal Service located at 4 East Central Street in Worcester, Massachusetts, as the ''Joseph D. Early Post Office Building''; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 435. Concurrent resolution expressing the sense of the Congress that the therapeutic technique known as rebirthing is a dangerous and harmful practice and should be prohibited; to the Committee on Health, Education, Labor, and Pensions.

The following measure, having been reported from the Committee on Health, Education, Labor, and Pensions, was referred to the Committee on Commerce, Science, and Transportation, for a period not to exceed 30 days of session pursuant to the order of March 3, 1988:

S. 2817. A bill to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007, for the National Science Foundation, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–9023. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2002–03 Late Season'' (RIN1018–AI30) received on September 16, 2002; to the Committee on Indian Affairs.

EC–9024. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the first annual report pursuant to The College Scholarship Fraud Prevention Act of 2000; to the Committee on the Judiciary.

EC–9025. A communication from Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Cost Estimate for Pay-As-You-Go for Report Number 582; to the Committee on the Budget.

EC–9026. A communication from Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Cost Estimate for Pay-As-You-Go for Report Number 583; to the Committee on the Budget.

EC–9027. A communication from the Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on transactions involving exports to China; to the Committee on Banking, Housing, and Urban Affairs.

EC–9028. A communication from the Director, Bureau of the Census, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Bureau of the Census Certification Process'' (RIN0607–AA36) received on September 13, 2002; to the Committee on Governmental Affairs.

EC–9029. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Domestic Asset/Liability and Domestic Investment Yield Percentage for 2001'' (Rev. Proc. 2002–58) received on September 12, 2002; to the Committee on Finance.

EC–9030. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Legislation and Congressional Affairs, received on September 13, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9031. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Aging-Related Changes in Impairment for Persons Living with Physical Disabilities and Personal Assistance Services'' received on September 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9032. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent U.S. military personnel and U.S. individual civilians retained as contractors involved in the antinarcotics campaign in Colombia; to the Committee on Appropriations.

EC–9033. A communication from the Congressional Liaison Officer, Trade and Development Agency, transmitting, pursuant to law, the report of funding obligations that require special notification under Section 520 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002; to the Committee on Appropriations.

EC–9034. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 99–06; to the Committee on Appropriations.

EC–9035. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 00–02; to the Committee on Appropriations.

EC–9036. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 98–04; to the Committee on Appropriations.

EC–9037. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 99–06; to the Committee on Appropriations.

EC–9038. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a notification relative to funds for purposes of Nonproliferation and Disarmament Fund (NDF) activities; to the Committee on Foreign Relations.

EC–9039. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''VISAS: Documentations of Immigrants—International Broadcasters'' (RIN 1400–AB22) received on September 16, 2002; to the Committee on Foreign Relations.

EC–9040. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for India; to the Committee on Foreign Relations.

EC–9041. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for India; to the Committee on Foreign Relations.

EC–9042. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–9043. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of technical data and defense services to

India; to the Committee on Foreign Relations.

EC–9044. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed Manufacturing License Agreement with Japan; to the Committee on Foreign Relations.

EC–9045. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for India; to the Committee on Foreign Relations.

EC–9046. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–9047. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Algeria; to the Committee on Foreign Relations.

EC–9048. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to Arms Export Control Act, the report of a certification of a proposed license for India; to the Committee on Foreign Relations.

EC–9049. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Greece; to the Committee on Foreign Relations.

EC–9050. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–9051. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–9052. A communication from the Deputy Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mergers and Consolidations of Electric Borrowers'' (RIN 0572–AB63) received on September 13, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9053. A communication from the Congressional Review Coordinator , Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''AQI User Fees: Extension of Current Fees Beyond Fiscal Year 2002'' (Doc. No. 02–085–1) received on September 13, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9054. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Thiophanate-methyl; Pesticide Tolerances for Emergency Exemptions'' (FRL7196–5) received on September 12, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9055. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Objections to Tolerances Established for Certain Pesticide Chemicals; Additional Extension of Comment Period'' (FRL7275–3) received on September 12, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9056. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California; Decreased Assessment Rate'' (Doc. No. FV02–993–4 IFR) received on September 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9057. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Domestic Dates Produced or Packed in Riverside County, California; Increased Assessment Rate'' (Doc. No. FV02–987–1 FR) received on September 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9058. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Celery Grown in Florida; Termination of Marketing Order No. 967'' (FV 98–967–1 FR) received on September 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9059. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches'' (Doc. No. FV 02–916–1 FIR) received on September 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9060. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Kiwifruit Grown in California; Relaxation of Pack and Container Requirements'' (Doc. No. FV02–920–3 IFR) received on September 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9061. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Grapes Grown in Designated Area of Southeastern California; Revision to Container and Pack Requirements'' (Doc. No. FV 02–925–2 FIR) received on September 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9062. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Apricots Grown in Designated Counties in Washington; Increased Assessment Rate'' (Doc. No. FV02–922–1 FR) received on September 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9063. A communication from the Attorney-Advisor, Bureau of Transportation Statistics, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the Definitions of Revenue and Nonrevenue Passengers'' (RIN2139–AA07) received on September 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9064. A communication from the Chairman, Office of Economic, Environmental, Analysis, and Administration, Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled ''Accounts, Records, And Reports; Technical Amendment'' (STB Ex. Parte No. 636) received on September 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9065. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Revisions to Standards for Infectious Substances; Correction'' (RIN2137–AD13) received on September 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9066. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Miscellaneous Revisions to Registration Requirements'' (RIN2317–AD74) received on September 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9067. A communication from the Assistant Administrator for Human Resources and Education, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Administrator, received on September 13, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9068. A communication from the Acting Assistant Administrator, National Ocean Service, Estuarine Reserves Division, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Federal Register Notice/FY03 National Estuarine Research Reserve Graduate Research Fellowship'' received on September 13, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9069. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, the Federal Commission's Auctions Expenditure Report for Fiscal Year 2001; to the Committee on Commerce, Science, and Transportation.

EC–9070. A communication from the Chairman, Federal Communications Commission, transmitting, the FCC University Catalog for Fall of 2002; to the Committee on Commerce, Science, and Transportation.

EC–9071. A communication from the Deputy Administrator for Fishery Programs, National Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Emergency Interim Rule to Implement Steller Sea Lion Protection Measures and Harvest Specifications for the 2002 Bering Sea/Aleutian Islands Area and the Gulf of Alaska Groundfish Fisheries'' (RIN0648–AP69) received on September 10, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9072. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Tank Level or Pressure Monitoring Devices'' (RIN2115–AG10) received on September 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9073. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations: James River, Jamestown to Scotland, Virginia'' ((RIN2115–AE46)(2002–

0031)) received on September 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9074. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: (including 6 regulations)'' ((RIN2115–AA97)(2002–0186)) received on September 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9075. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Passaic River'' ((RIN2115–AE47)(2002–0082)) received on September 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9076. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds'' (RIN1018–AI30) received on September 16, 2002; to the Committee on Environment and Public Works.

EC–9077. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife and Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Final Frameworks for Late Season Migratory Bird Hunting Regulations'' (RIN1018–AI30) received on September 16, 2002; to the Committee on Environment and Public Works.

EC–9078. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Emergency Rule to Establish Seven Additional Manatee Protection Areas in Florida'' (RIN1018–AH80) received on September 16, 2002; to the Committee on Environment and Public Works.

EC–9079. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''2002–2003 Refuge-Specific Hunting and Sport Fishing Regulations'' (RIN1018–AI34) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9080. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver PM10 Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes'' (FRL7261–3) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9081. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Vehicle Inspection and Maintenance Program; Utah County'' (FRL7264–7) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9082. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Utah; New Source Performance Standards'' (FRL7376–7) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9083. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Carbon Monoxide Implementation Plan; State of Alaska; Anchorage'' (FRL7253–4) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9084. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Sources and Modifications'' (FRL7378–7) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9085. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; North Carolina: Approval of Miscellaneous Revisions to the Mecklenburg County Local Implementation Plan'' (FRL7377–8) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9086. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of the Clean Air Act, Section 112(1), Authority for Hazardous Air Pollutants: Perchloroethylene Air Emission Standards for Dry Cleaning Facilities: Commonwealth of Massachusetts Department of Environmental Protection'' (FRL7271–1) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9087. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production; Final Rule Amendments'' (FRL7375–9) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9088. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Clarify the Scope of Sufficiency Monitoring Requirements for Federal and State Operating Permits Programs'' (FRL7374–6) received on September 12, 2002 ; to the Committee on Environment and Public Works.

EC–9089. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District'' (FRL7272–4) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9090. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL7266–2) received on September 12, 2002; to the Committee on Environment and Public Works.

EC–9091. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL7272–6) received on September 12, 2002; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 975: A bill to improve environmental policy by providing assistance for State and tribal land use planning, to promote improved quality of life, regionalism, and sustainable economic development, and for other purposes. (Rept. No. 107–290).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2817: A bill to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes. (Rept. No. 107–291).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAYH (for himself and Mr. LUGAR):

S. 2952. A bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 2953. A bill to redesignate the Colonnade Center in Denver, Colorado, as the ''Cesar E. Chavez Memorial Building''; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. WELLSTONE, Mr. LEAHY, and Mr. DAYTON):

S. 2954. A bill to amend the Elementary and Secondary Education Act of 1965 to permit States and local educational agencies to decide the frequency of using high quality assessments to measure and increase student academic achievement, to permit States and local educational agencies to obtain a waiver of certain testing requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK (for himself and Mr. GREGG):

S. 2955. A bill to improve data collection and dissemination, treatment, and research relating to cancer, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 2956. A bill to require the Secretary of Homeland Security to submit a semi-annual report to Congress regarding the effectiveness with which information is exchanged between the Department of Homeland Security, the Federal Bureau of Investigation, and State and local law enforcement authorities; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 2957. A bill to suspend temporarily the duty on Bispyribac Sodium; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2958. A bill to suspend temporarily the duty on Fenpropathrin; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2959. A bill to suspend temporarily the duty on Acephate; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2960. A bill to suspend temporarily the duty on Pyriproxyfen; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2961. A bill to suspend temporarily the duty on Uniconazole-P; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2962. A bill to suspend temporarily the duty on Flumioxazin; to the Committee on Finance.

By Mr. JOHNSON:

S. 2963. A bill to reform the United States Army Corps of Engineers; to the Committee on Environment and Public Works.

By Mr. LEVIN (for himself, Ms. COLLINS, Ms. STABENOW, Mr. DEWINE, Mr. REED, Mr. WARNER, Mr. DURBIN, Mr. FITZGERALD, Mr. AKAKA, Mr. VOINOVICH, Mr. INOUYE, Ms. CANTWELL, Mr. KENNEDY, and Mr. BAYH):

S. 2964. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. FRIST, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mr. HARKIN, Ms. COLLINS, Mr. BIDEN, Mr. BOND, Ms. LANDRIEU, Mr. REID, Mr. BINGAMAN, Mr. DODD, Mrs. CLINTON, Mr. HOLLINGS, and Mr. EDWARDS):

S. 2965. A bill to amend the Public Health Service Act to improve the quality of care for cancer, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SANTORUM:

S. Con. Res. 140. A concurrent resolution recognizing the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to baseball and the Nation; to the Committee on the Judiciary.

By Mrs. FEINSTEIN: (for herself and Mrs. BOXER):

S. Con. Res. 141. A concurrent resolution congratulating the Lawrence Livermore National Laboratory, its staff, and former employees, on the occasion of the 50th anniversary of the founding of the Laboratory, for its outstanding contributions to national security and science in service to our Nation; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 654 , a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 710

At the request of Mr. KENNEDY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 917

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from Indiana (Mr. BAYH) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 1020

At the request of Mr. HARKIN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1020, a bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to medicare beneficiaries residing in rural areas.

S. 1298

At the request of Mr. HARKIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1298, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1523

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1523, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1686

At the request of Mr. KENNEDY, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1686, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 2022

At the request of Mr. BOND, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2022, a bill to amend the Internal Revenue Code of 1986 to modify the unrelated business income limitation on investment in certain debt-financed properties.

S. 2027

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2027, a bill to implement effective measures to stop trade in conflict diamonds , and for other purposes.

S. 2072

At the request of Mr. CORZINE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2072, a bill to amend title XIX of the Social Security Act to provide States with the option of covering intensive community mental health treatment under the Medicaid Program.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2328

At the request of Mr. HARKIN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2328, a bill 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.

S. 2466

At the request of Mr. KERRY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2466, a bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes.

S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2512

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2557

At the request of Mr. HATCH, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2557, a bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries, and for other purposes.

S. 2662

At the request of Ms. COLLINS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2662, a bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses.

S. 2674

At the request of Mr. BROWNBACK, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2707

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2707, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

S. 2753

At the request of Mr. KERRY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2753, a bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes.

S. 2792

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2792, a bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to carry out certain authorities relating to the importation of municipal solid waste under the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada.

S. 2892

At the request of Mr. KENNEDY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2892, a bill to provide economic security for America's workers.

S. 2898

At the request of Mr. THURMOND, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2898 , a bill for the relief of Jaya Gulab Tolani and Hitesh Gulab Tolani.

S. RES. 307

At the request of Mr. TORRICELLI, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S.Res. 307, A resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 322

At the request of Mrs. LINCOLN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S.Res. 322, A resolution designating November 2002, as ''National Epilepsy Awareness Month''.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Con. Res. 11, A concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

AMENDMENT NO. 4552

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 4552 proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH (for himself and Mr. LUGAR)

S. 2952. A bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail; to the Committee on Energy and Natural Resources.

Mr. BAYH. Mr. President, next year America will celebrate the bicentennial of the cross-country expedition of Meriwether Lewis and William Clark. With what became known as the Corps of Discovery, Lewis and Clark embarked on an epic journey to chart an overland route to the Pacific Ocean, developing a record of its native people and resources. They catalogued varieties of never before seen plant and animal life. In fact, their expedition is seen as a critical precursor to America's great movement to the West.

Less known, but of no less significance to the expedition, are the historic events that occurred at the outset of the journey. I rise today, with my colleague from Indiana, Senator LUGAR, to introduce legislation that recognizes the importance of these events by adding the Falls of the Ohio, in Clarksville, IN and Louisville, KY, to the sites honored and preserved by inclusion on the Lewis and Clark National Historic Trail.

Many historians have detailed the fact that it was the Falls of the Ohio, in Clarksville, IN, that Meriwether Lewis and William Clark met and formed their famous partnership. It was there that they spent 12 days recruiting and enlisting members for their Western expedition in Louisville and southern Indiana for the Corps of Discovery. Ultimately they selected nine men from the area. After establishing their crew, Lewis and Clark set out for the West on the Ohio River from Clarksville on October 26, 1803.

One of the many accounts of the formation of the Corps of Discovery is included in historian Stephen E. Ambrose's work on the expedition, Undaunted Courage. Mr. Ambrose writes that: ''At the foot of the rapids, on the north bank, was Clarksville, Indiana Territory. . . . On October 15, Lewis hired local pilots, who took the boat and pirogues into the dangerous but passable passage on the north bank. Safely through, Lewis tied up at Clarksville and set off to meet his partner.''

''When they shook hands, the Lewis and Clark expedition began.''

And Ambrose continues: ''Word has spread up and down the Ohio, and inland, and young men longing for adventure and ambitious for a piece of land of their own set out for Clarksville to sign up . . . Those selected were sworn into the army in solemn ceremony, in the presence of General Clark, and the Corps of Discovery was born.''

The National Park Service agreed with Mr. Ambrose and other historical sources that the events at the Falls of the Ohio are of important historical significance. The National Park Service certified the Falls of the Ohio State Park as an official site associated with the Lewis and Clark National Historic Trail.

My legislation would simply reiterate the Park Service's conclusion that the events at the Falls of the Ohio are a significant part of the history of the Lewis and Clark expedition and would include the Falls of the Ohio among the areas designated for recognition on the Lewis and Clark National Historic Trail.

The National Council of the Lewis and Clark Bicentennial designated the Falls of the Ohio as the second signature event of the bicentennial, which will be held in October 2003.

The Falls of the Ohio is an integral part of the Lewis and Clark story, which will be uniquely celebrated next year. It is my hope that we can move quickly to pass this legislation to insure that the recognition occurs in time for the much anticipated 200th anniversary of the trail. That way the citizens of Clarksville and Louisville can honor and preserve their local heritage and all students of history can fully follow in the footsteps of Lewis and Clark and experience the birth of the Corps of Discovery at the Falls of the Ohio.

By Mr. CAMPBELL:

S. 2953. A bill to redesignate the Colonnade Center in Denver, Colorado, as the ''Cesar E. Chavez Memorial Building''; to the Committee on Environment and Public Works.

Mr. CAMPBELL. Mr. President, today I am introducing legislation to name the Federal building located at 1244 Speer Boulevard, Denver, CO., as the ''Cesar E. Chavez Memorial Building.''

Cesar E. Chavez was an ordinary American who left behind an extraordinary legacy of commitment and accomplishment.

Born on March 31, 1927 in Yuma Arizona on a farm his grandfather homesteaded in the 1880's, he began his life as a migrant farm worker at the age of 10 when the family lost the farm during the Great Depression. Those were desperate years for the Chavez family as they joined the thousands of displaced people who were forced to migrate throughout the country to labor in the fields and vineyards.

Motivated by the poverty and harsh working conditions, he began to follow his dream of establishing an organization dedicated to helping these farm workers. In 1962 he founded the National Farm Workers Association which would eventually evolve into the United Farm Workers of America.

Over the next three decades with an unwavering commitment to democratic principals and a philosophy of non-violence he struggled to secure a living wage, health benefits and safe working conditions for arguably the most exploited work force in our country, that they might enjoy the basic protections and workers right to which all Americans aspire.

In 1945, at the age of 18 Cesar Chavez joined the U.S. Navy and served his country for two years. He was the recipient of the Martin Luther King Jr. Peace Prize as well as the Presidential medal of Freedom, the highest award this country can bestow upon a civilian.

Chavez's efforts brought dignity and respect to this country's farm workers and in doing so became a hero, role model and inspiration to people engaged in human rights struggles throughout the world.

The naming of this building will keep alive the memory of his sacrifice and commitment for the millions of people whose lives he touched.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2953

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

SECTION 1. DESIGNATION OF CESAR E. CHAVEZ MEMORIAL BUILDING.

The building known as the Colonnade Center, located at 1244 Speer Boulevard, Denver, Colorado, shall be known and designated as the ''Cesar E. Chavez Memorial Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Cesar E. Chavez Memorial Building.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. WELLSTONE, Mr. LEAHY, and Mr. DAYTON):

S. 2954. A bill to amend the Elementary and Secondary Education Act of 1965 to permit States and local educational agencies to decide the frequency of using high quality assessments to measure and increase student academic achievement, to permit States and local educational agencies to obtain a waiver of certain testing requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, as millions of public school students and teachers around the country settle into the new school year, I am introducing a bill that would help to return a measure of local control that was taken from school districts and State educational agencies with the enactment of the No Child Left Behind Act earlier this year.

I am pleased to be joined in this effort by Senators Jeffords, Wellstone, Leahy, and Dayton.

I strongly support maintaining local control over decisions affecting our children's day-to-day classroom experiences. I also believe that the Federal Government has an important role to play in supporting our State educational agencies and local school districts as they carry out one of their most important responsibilities, the education of our children.

I voted against the recently-enacted No Child Left Behind Act in large part because of the new annual testing mandate for students in grades 3–8. While I agree that there should be a strong accountability system in place to ensure that public school students are making progress, I strongly oppose over-testing students in our public schools. I agree that some tests are needed to ensure that our children are keeping pace, but taking time to test students has to take a back seat to taking the time to teach students in the first place.

I have heard a lot about these new annual tests from the people of Wisconsin, and their response has been almost universally negative. My constituents are concerned about this additional layer of testing for many reasons, including the cost of developing and implementing these tests, the loss of teaching time every year to prepare for and take the tests, and the extra pressure that the tests will place on students, teachers, schools, and school districts.

I share my constituents' concerns about this new Federal mandate. I find it interesting that proponents of the No Child Left Behind Act say that it will return more control to the States and local school districts. In my view, however, this massive new Federal testing mandate runs counter to the idea of local control.

Many States and local school districts around the country, including Wisconsin, already have comprehensive testing programs in place. The Federal Government should leave decisions about the frequency of using high quality assessments to measure and increase student academic achievement up to the States and local school districts that bear the responsibility for educating our children. Every State and every school district is different. A uniform testing policy may not be the best approach.

I have heard from many education professionals in my state that this new testing requirement is a waste of money and a waste of time. These people are dedicated professionals who are committed to educating Wisconsin's children, and they don't oppose testing. I think we can all agree that testing has its place. What they oppose is the magnitude of testing that is required by this law.

Beginning in the 2005–2006 school year, the No Child Left Behind Act will pile more tests on our Nation's public school students. And of course, when those tests are piled on students, they burden our teachers as well, because teachers must spend more and more time preparing students to take these exams.

This kind of teaching, sometimes called ''teaching to the test,'' is becoming more and more prevalent in our schools as testing has become increasingly common. The dedicated teachers in our classrooms will now be constrained by teaching to yet more tests, instead of being able to use their own judgment about what subject areas the class needs to spend extra time studying. This additional testing time could also reduce the opportunity for teachers to create and implement innovative learning experiences for their students.

Teachers in my State are concerned about the amount of time that they will have to spend preparing their students to take the tests and administering the tests. They are concerned that these additional tests will disrupt

the flow of education in their classrooms. One teacher said the preparation for the tests Wisconsin already requires in grades 3, 4, 8, and 10 can take up to a month, and the administration of the test takes another week. That is five weeks out of the school year. And now the Federal Government is requiring teachers to take a huge chunk out of instruction time each year in grades 3–8. In my view, and in the view of the people of my State, this time can be better spent on regular classroom instruction.

The legislation that I introduce today, the Student Testing Flexibility Act of 2002, would give State educational agencies, SEAs, and local educational agencies, LEAs, that have demonstrated academic success the flexibility to apply to waive the new annual testing requirements in the No Child Left Behind Act. SEAs and LEAs with waivers would still be required to administer high quality tests to students in, at a minimum, reading or language arts and mathematics at least once in grades 3–5, 6–9, and 10–12 as required under the law.

This bill would allow SEAs and LEAs that meet the same specific accountability criteria outlined for school-level excellence under the State Academic Achievement Award Program to apply to the Secretary of Education for a waiver from the new annual reading or language arts and mathematics tests for students in grades 3–8. The waiver would be for a period of three years and would be renewable, so long as the SEA or LEA met the criteria.

To qualify for the waiver, the SEA or LEA must have significantly closed the achievement gap between a number of subgroups of students as required under Title I, or must have exceeded their adequate yearly progress, AYP, goals for two or more consecutive years. The bill would require the Secretary to grant waivers to SEAs or LEAs that meet these criteria and apply for the waiver. LEAs in states that have waivers would not be required to apply for a separate waiver.

The Federal Government should not impose an additional layer of testing on states that are succeeding in meeting or exceeding their AYP goals or on closing the achievement gap. Instead, we should allow those States that have demonstrated academic success to use their share of Federal testing money to help those schools that need it the most.

The bill I introduce today would do just that by allowing States with waivers to retain their share of the Federal funding appropriated to develop and implement the new annual tests. These important dollars would be used for activities that these states deem appropriate for improving student achievement at individual public elementary and secondary schools that have failed to make AYP.

I am pleased that this legislation is supported by the National PTA, the National Association of Elementary School Principals, the National Association of Secondary School Principals, the Wisconsin Department of Public Instruction, the Wisconsin Education Association Council, the Wisconsin Association of School Boards, the Milwaukee Teachers' Education Association, and the Wisconsin School Administrators Alliance, which includes the Association of Wisconsin School Administrators, the Wisconsin Association of School District Administrators, the Wisconsin Association of School Business Officials, and the Wisconsin Council for Administrators of Special Services.

While this bill focuses on the overtesting of students in our public schools, I would like to note that my constituents have raised a number of other concerns about the No Child Left Behind Act that I hope will be addressed by Congress. In particular, many of my constituents are concerned about the new adequate yearly progress requirements and about finding the funding necessary to implement all of the provisions of this new law. I hope that my bill, the Student Testing Flexibility Act, will help to focus attention on the perhaps unintended consequences that the ongoing implementation of the No Child Left Behind Act will have for States, school districts, and individual schools, teachers, and students.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2954

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Student Testing Flexibility Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) State and local governments bear the majority of the cost and responsibility of educating public elementary school and secondary school students;

(2) State and local governments often struggle to find adequate funding to provide basic educational services;

(3) the Federal Government has not provided its share of funding for numerous federally mandated elementary and secondary education programs;

(4) underfunded Federal education mandates increase existing financial pressures on States and local educational agencies;

(5) the cost to States and local educational agencies to implement the annual student academic assessments required under section 1111(b)(3)(C)(vii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(vii)) remains uncertain;

(6) public elementary school and secondary school students take numerous tests each year, from classroom quizzes and exams to standardized and other tests required by the Federal Government, State educational agencies, or local educational agencies;

(7) multiple measures of student academic achievement provide a more accurate picture of a student's strengths and weaknesses than does a single score on a high-stakes test; and

(8) the frequency of the use of high quality assessments as a tool to measure and increase student achievement should be decided by State educational agencies and local educational agencies.

SEC. 3. WAIVER AUTHORITY.

Section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) is amended by adding at the end the following:

''(E) WAIVER AUTHORITY.—

''(i) STATES.—Upon application by a State educational agency, the Secretary shall waive the requirements of subparagraph (C)(vii) for a State if the State educational agency demonstrates that the State—

''(I) significantly closed the achievement gap between the groups of students described in paragraph (2); or

''(II) exceeded the State's adequate yearly progress, consistent with paragraph (2), for 2 or more consecutive years.

''(ii) LOCAL EDUCATIONAL AGENCIES.—Upon application of a local educational agency located in a State that does not receive a waiver under clause (i), the Secretary shall waive the application of the requirements of subparagraph (C)(vii) for the local educational agency if the local educational agency demonstrates that the local educational agency—

''(I) significantly closed the achievement gap between the groups of students described in paragraph (2); or

''(II) exceeded the local educational agency's adequate yearly progress, consistent with paragraph (2), for 2 or more consecutive years.

''(iii) PERIOD OF WAIVER.—A waiver under clause (i) or (ii) shall be for a period of 3 years and may be renewed for subsequent 3-year periods.

''(iv) UTILIZATION OF CERTAIN FEDERAL FUNDS.—

''(I) PERMISSIVE USES.—Subject to subclause (II), a State or local educational agency granted a waiver under clause (i) or (ii) shall use funds, that are awarded to the State or local educational agency, respectively, under this Act for the development and implementation of annual assessments under subparagraph (C)(vii), to carry out educational activities that the State educational agency or local educational agency, respectively, determines will improve the academic achievement of students attending public elementary schools and secondary schools in the State or local educational agency, respectively, that fail to make adequate yearly progress (as defined in paragraph (2)(C)).

''(II) NONPERMISSIVE USE OF FUNDS.—A State or local educational agency granted a waiver under clause (i) or (ii) shall not use funds, that are awarded to the State or local educational agency, respectively, under this Act for the development and implementation of annual assessments under subparagraph (C)(vii), to pay a student's cost of tuition, room, board, or fees at a private school.''.

By Mr. BROWNBACK (for himself and Mr. GREGG):

S. 2955. A bill to improve data collection and dissemination, treatment, and research relating to cancer, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWNBACK. Mr. President, today, I am proud to join with the ranking member of the Senate HELP Committee in introducing and the National Cancer Act of 2002. We believe that this is the proverbial first step of the thousand mile journey toward the

goal of making cancer death rare by the year 2015.

First, I would be remiss if I failed to point out that we are not the first in the Senate to drop a cancer bill. Indeed, fired the first salvo in our Nation's conflict with cancer with the passage of the National Cancer Institute Act back in 1937. This law, established the National Cancer Institute, (NCI), within the public health service and directed the Surgeon General to promote cancer research.

In 1971, responding to the call of President Nixon, Congress officially declared war on cancer with the passage of the National Cancer Act of 1971. This law established the Director of the National Cancer Institute as one of two Presidentially appointment posts within all of the National Institutes of Health. In addition, the '71 Act gave the Director the ability to bypass the normal budget process and submit the NCI budget directly to the President, a privilege that is entirely unique throughout the Executive Branch. With our declaration of war our Nation saw the establishment of the President's Cancer Panel, the National Cancer Advisory Board, the International Cancer Research Data Bank and the first cancer center. The stated goal of the country that had just landed a man on the moon was to cure cancer within a decade.

Since 1971, we have seen 31 years pass, six Presidents sworn in, 15 sessions of Congress, and ten different bills signed into law with the goal of ending the prolonged war on cancer. This year over half a million Americans will die from cancer. It is for them, and for the 1.2 million Americans who will be diagnosed with cancer, and for the millions of cancer survivors who are living beyond this disease that we introduce this bill today.

Ours is the time is history when we must reinvigorate the battle. Thanks to advances in treatment and increased screening and early detection, between 1990 and 1997, for the first time in history, the number of cancer deaths and diagnoses have declined. However, to whom much is given, much is expected. The National Cancer Act of 2002, answers the call and lays out a battle plan for the next, and hopefully final attack in the war on cancer.

Mr. GREGG. Mr. President, I am very pleased this morning to introduce this bill with my good friend Senator BROWNBACK. Our bill, the National Cancer Act of 2002, is an important step forward in making survivorship of cancer the rule in this Nation and cancer mortality the rare exception. I want to thank our good friends in the cancer and pain care communities who have provided critical feedback during the development of the Act. Our bill will: Enhance coordination between State registries and between those registries and Federal cancer control and research efforts, with a focus on developing interoperability and compatible hardware/software infrastructure. Reauthorize the successful CDC Breast and Cervical Cancer screening program, with expansion encouraged for colorectal cancer screening. Improve NIH efforts in the area of pain and palliative care research and dissemination of information to patients and providers. Expand access for patients to experimental therapies, both in NIH-funded clinical trials, privately-funded manufacturer trials and access for terminal patients to therapies that have not yet been approved by FBA. Encourage Congress and the Administration to address several of the most significant cancer-related problems in the Medicare system.

I look forward to working with my colleagues on the HELP Committee to move this important piece of legislation this year. I know that we all share the agenda of combating this public health problem facing so many Americans.

By Mr. FEINGOLD:

S. 2956. A bill to require the Secretary of Homeland Security to submit a semi-annual report to Congress regarding the effectiveness with which information is exchanged between the Department of Homeland Security, the Federal Bureau of Investigation, and State and local law enforcement authorities; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, first let me commend the Chairman and Ranking Member of the Governmental Affairs Committee for all of their efforts in crafting the Homeland Security measure before the Senate today.

As I have listened to the various proposals to create a Department of Homeland Security one of my primary concerns is what are we going to do to improve the role of the FBI as an intelligence gathering agency. I rise today to introduce legislation on this matter, and I send a copy of this legislation to the desk.

I also rise to offer the same legislation as an amendment to the Homeland Security bill, and I send a copy of the amendment to the desk.

The need for this amendment is clear. We have heard, over and over again, that one of the chief purposes of the new Department is to enable one agency to serve as a central clearinghouse for all terrorism related information, regardless of the source. For the consumers of intelligence information, like the Department of Homeland Security, it should not matter whether the information comes from a CIA agent in the Middle East, an FBI agent listening to a wire-tap from overseas or a cop on a street corner in New York City.

I am concerned that we have not done enough to insure that the relevant information gathered by the FBI is passed on to those who can analyze it and evaluate a potential threat against our Nation's safety. Simply put, I wonder about what type of information the FBI will be providing to the new Department and what the new Department will do with the information. I am concerned about the lack of policies and procedures in place for the new Department to request follow-up investigation from the FBI and local law enforcement.

I have offered this amendment, entitled the Intelligence Analysis Reporting Act of 2002, to assist Congress in determining if the division of investigative responsibilities between the Department of Homeland Security and the FBI is working effectively. This amendment will provide Congress with the information necessary to determine if the FBI is taking competent steps to provide information to the new Department and to respond to intelligence requests in a useful manner.

Presently, the FBI does not have the technological nor personnel capacity to provide information to the Department of Homeland Security or to any other intelligence agency in a highly useful form. This is because criminal investigations, which involve grand jury testimony, witness interviews and wire-taps, are not conducive to the standards of intelligence gathering which require some sifting of the material before it is disseminated to consumers like a Department of Homeland Security.

This amendment would require the new Department to report to Congress on policies and procedures implemented to insure that it can adequately request information and investigation from the FBI and local law enforcement. In addition, it requires the Department of Homeland Security to report on what types of intelligence information have been turned over such as summary interviews, transcripts and warrants from the FBI and other law enforcement agencies.

I firmly believe that no matter how many agencies are moved into a Department of Homeland Security or how much money we spend on putting up a new building, the only test of our success will be how effective we are in protecting ourselves against future threats. This amendment will allow us to determine if the critical intelligence information we need to prevent a possible attack is being provided to people at the Department of Homeland Security who can act on it promptly and effectively.

I urge my colleagues to support this measure.

By Mr. JOHNSON:

S. 2963: A bill to reform the United States Army Corps of Engineers; to the Committee on Environment and Public Works.

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

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

S. 2963

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Corps of Engineers Reform Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CORPS.—The term ''Corps'' means the Corps of Engineers.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

SEC. 3. INLAND WATERWAY REFORM.

(a) CONSTRUCTION.—Section 102(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2212(a)) is amended—

(1) in the first sentence, by striking ''One-half of the costs of construction'' and inserting ''Forty-five percent of the costs of construction''; and

(2) by striking the second sentence and inserting ''Fifty-five percent of those costs shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.''.

(b) OPERATION AND MAINTENANCE.—Section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212) is amended by striking subsections (b) and (c) and inserting the following:

''(b) OPERATION AND MAINTENANCE.—

''(1) FEDERAL SHARE.—The Federal share of the cost of operation and maintenance shall be 100 percent in the case of—

''(A) a project described in paragraph (1) or (2) of subsection (a); or

''(B) the portion of the project authorized by section 844 that is allocated to inland navigation.

''(2) SOURCE OF FEDERAL SHARE.—

''(A) GENERAL FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is less than or equal to 1 cent per ton mile, or in the case of the portion of the project authorized by section 844 that is allocated to inland navigation, the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury.

''(B) GENERAL FUND AND INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 1 but less than or equal to 10 cents per ton mile—

''(i) 45 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury; and

''(ii) 55 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

''(C) INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 10 cents per ton mile, 100 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.''.

SEC. 4. INDEPENDENT REVIEW.

(a) DEFINITIONS.—In this section:

(1) AFFECTED STATE.—The term ''affected State'', with respect to a water resources project, means a State or portion of a State that—

(A) is located, at least partially, within the drainage basin in which the project is carried out; and

(B) would be economically or environmentally affected as a result of the project.

(2) DIRECTOR.—The term ''Director'' means the Director of Independent Review appointed under subsection (c)(1).

(b) PROJECTS SUBJECT TO INDEPENDENT REVIEW.—

(1) IN GENERAL.—The Secretary shall ensure that each draft feasibility report, draft general reevaluation report, and draft environmental impact statement for each water resources project described in paragraph (2) is subject to review by an independent panel of experts established under this section.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project has an estimated total cost of more than $30,000,000, including mitigation costs;

(B) the Governor of an affected State, or the Director of a Federal agency with jurisdiction over resources affected by the proposed project requests the establishment of a panel of independent experts to review the project; and

(C) the Secretary determines under paragraph (3) that the proposed project is controversial.

(3) WRITTEN REQUESTS.—Not later than 30 days after the date on which the Secretary receives a written request of an interested party, or on the initiative of the Secretary, the Director shall determine whether a water resources project is controversial.

(c) DIRECTOR OF INDEPENDENT REVIEW.—

(1) APPOINTMENT.—The Secretary of the Army shall appoint in the Office of the Inspector General of the Department of the Army a Director of Independent Review.

(2) QUALIFICATIONS.—The Secretary of the Army shall select the Director from among individuals who are distinguished experts in biology, hydrology, engineering, economics, or another discipline relating to water resources management.

(3) LIMITATION ON APPOINTMENTS.—The Army Inspector General shall not appoint an individual to serve as the Director if the individual has a financial interest in or close professional association with any entity with a strong financial interest in a water resources project that, on the date of appointment of the Director, is—

(A) under construction;

(B) in the preconstruction engineering and design phase; or

(C) under feasibility or reconnaissance study by the Corps.

(4) TERMS.—

(A) IN GENERAL.—The term of a Director appointed under this subsection shall be 6 years.

(B) TERM LIMIT.—An individual may serve as the Director for not more than 2 nonconsecutive terms.

(5) DUTIES.—The Director shall establish a panel of experts to review each water resources project that is subject to review under subsection (b).

(d) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—After the date on which the Secretary issues a draft feasibility report, draft general reevaluation report, or draft environmental impact statement relating to a water resources project that is subject to review under subsection (b)(2), the Director shall establish a panel of experts to review the project.

(2) MEMBERSHIP.—A panel of experts established by the Director for a water resources project shall be composed of not less than 5 nor more than 9 independent experts (including 1 or more biologists, engineers, and economists) who represent a range of areas of expertise.

(3) LIMITATION ON APPOINTMENTS.—The Director shall not appoint an individual to serve on a panel of experts for a project if the individual has a financial interest in or close professional association with any entity with a strong financial interest in the project.

(4) CONSULTATION.—The Director may consult with the Academy in developing lists of individuals to serve on panels of experts under this section.

(5) COMPENSATION.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Inspector General.

(6) TRAVEL EXPENSES.—A member of a panel of experts under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the panel.

(e) DUTIES OF PANELS.—A panel of experts established for a water resources project under this section shall—

(1) review each draft feasibility report, draft general reevaluation report, and draft environmental impact statement prepared for the project to identify—

(A) technical errors;

(B) outdated and inaccurate data; and

(C) flawed economic and environmental methodologies and models;

(2) receive from the public written and oral comments concerning the project; and

(3) not later than the deadline established under subsection (f), submit to the Secretary a report concerning the economic, engineering, and environmental analysis of the project, including the conclusions and recommendations of the panel.

(f) DURATION OF PROJECT REVIEWS.—Not later than 180 days after the date of establishment of a panel of experts for a water resources project under this section, the panel shall complete each required review of the project and all other duties of the panel relating to the project.

(g) FINAL ISSUANCE OF REPORTS AND STATEMENTS.—Before issuing a final feasibility report, final general reevaluation report, or final environmental impact statement for a water resources project, the Secretary shall—

(1) take into consideration any recommendations contained in the report described in subsection (e)(3) for the water resources project; and

(2) prepare and include in the final feasibility report, final general reevaluation report, or final environmental impact statement—

(A) the report of the panel; and

(B) for any recommendations of the panel not adopted by the Secretary, a written explanation of the reasons why the recommendations were not adopted.

(h) COSTS.—The cost of conducting a review of a water resources project under this section—

(1) shall not exceed $250,000;

(2) shall be considered to be part of the total cost of the project; and

(3) shall be a Federal expense.

(i) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

SEC. 5. MITIGATION.

(a) CONCURRENT MITIGATION.—Section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(a)) is amended—

(1) by striking ''(a)(1) In the case'' and inserting the following:

''(a) MITIGATION.—

''(1) IN GENERAL.—In the case'';

(2) in paragraph (1), by indenting subparagraphs (A) and (B) appropriately;

(3) in paragraph (2), by striking ''(2) For the purposes'' and inserting the following:

''(3) COMMENCEMENT OF CONSTRUCTION.—For the purposes''; and

(4) by inserting after paragraph (1) the following:

''(2) IMPLEMENTATION OF MITIGATION.—

''(A) IN GENERAL.—To ensure concurrent mitigation, the Secretary shall implement required mitigation under paragraph (1) as expeditiously as practicable, but not later than—

''(i) the last day of construction of the project or separable element of the project; or

''(ii) in a case in which completion of mitigation by the date described in clause (i) is physically impracticable because 1 or more sites for the remaining mitigation are or will be disturbed by project construction (as determined by the Secretary), not later than the end of the next fiscal year immediately following the last day of construction.

''(B) AVAILABILITY OF FUNDS.—Funds made available for preliminary engineering and design, construction, or operations and maintenance may be used to carry out this subsection.''.

(b) FULL MITIGATION.—Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) PLANS AND PROPOSALS.—

''(A) IN GENERAL.—After November 17, 1986, the Secretary shall not submit any proposal for the authorization of any water resources project to Congress, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment, unless the proposal contains—

''(i) a specific plan to fully mitigate fish and wildlife losses created by the project; or

''(ii) a determination by the Secretary that the project will have negligible adverse impact on fish and wildlife.

''(B) FORESTS.—A specific mitigation plan described in subparagraph (A)(i) shall ensure, to the maximum extent practicable, that impacts to bottomland hardwood forests are mitigated in kind.

''(C) CONSULTATION.—In carrying out this subsection, the Secretary shall consult with appropriate Federal and non-Federal agencies.''; and

(2) by adding at the end the following:

''(3) STANDARDS FOR MITIGATION.—

''(A) IN GENERAL.—The Secretary shall not recommend a water resources project alternative or select a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan has a high probability of successfully mitigating the adverse impacts of the project on aquatic and other resources, hydrologic functions, and fish and wildlife.

''(B) REQUIREMENTS.—A mitigation plan described in subparagraph (A) shall—

''(i) provide for the acquisition and restoration of at least 1 acre of superior or equivalent habitat of the same type to replace each acre of habitat negatively affected by the project;

''(ii) ensure that mitigation will result in replacement of all functions of the habitat negatively affected by the project, including—

''(I) spatial distribution; and

''(II) natural hydrologic and ecological characteristics;

''(iii) contain sufficient detail regarding the mitigation sites and restoration activities selected to permit a thorough evaluation of—

''(I) the likelihood of the ecological success of the plan; and

''(II) resulting aquatic and other resource functions and habitat values;

''(iv) include a detailed and specific plan to monitor mitigation implementation and success; and

''(v) include specific ecological success criteria by which the success of the mitigation will be evaluated.''.

(c) MITIGATION TRACKING SYSTEM.—Section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283) is amended by adding at the end the following:

''(h) MITIGATION TRACKING SYSTEM.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall establish a recordkeeping system to track for each water resources project constructed, operated, or maintained by the Secretary, and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

''(A) the quantity and type of wetland and other types of habitat affected by the project or permitted activity;

''(B) the quantity and type of mitigation required for the project or permitted activity;

''(C) the quantity and type of mitigation that has been completed for the project or permitted activity; and

''(D) the status of monitoring for the mitigation carried out for the project or permitted activity.

''(2) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

''(A) include information on impacts and mitigation described in subsection (a) that occur after December 31, 1969; and

''(B) be organized by watershed, project, permit application, and zip code.

''(3) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public (including through the Internet).''.

SEC. 6. MODERN ECONOMIC AND ENVIRONMENTAL STANDARDS.

Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended to read as follows:

''SEC. 209. CONGRESSIONAL STATEMENT OF OBJECTIVES.

''(a) IN GENERAL.—It is the intent of Congress that economic development and environmental protection and restoration be coequal goals of water resources planning and development.

''(b) REVISION OF PRINCIPLES AND GUIDELINES.—Not later than 1 year after the date of enactment of the Army Corps Reform Act of 2002, the Secretary of the Army, in consultation with the National Academy of Sciences, shall revise the principles and guidelines of the Corps of Engineers for water resources projects (consisting of Engineer Regulation 1105–2–100 and Engineer Pamphlet 1165–2–1) to reflect modern methods of measuring benefits and costs of water resources projects.

''(c) REVISION OF GUIDANCE.—The Secretary of the Army shall revise the Guidance for Conducting Civil Works Planning Studies (ER 1105–2–100) to comply with this section.''.

By Mr. LEVIN (for himself, Ms. COLLINS, Ms. STABENOW, Mr. DEWINE, Mr. REED, Mr. WARNER, Mr. DURBIN, Mr. FITZGERALD, Mr. AKAKA, Mr. VOINOVICH, Mr. INOUYE, Ms. CANTWELL, Mr. KENNEDY, and Mr. BAYH):

S. 2964. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

THE NATIONAL AQUATIC INVASIVE SPECIES ACT OF 2002 (NAISA)

Ms. STABENOW. Mr. President, I would like to express my strong support for the National Acquatic Invasive Species Act of 2002 (NAISA)

Last year, I introduced S. 1034, the Great Lakes Ecology Protection Act which sought to curb the influx of invasive species into the Great Lakes. This is an immense task, as more than 87 nonindigenous aquatic species have been accidentally introduced into the Great Lakes in the past century. I am proud to say that this bill had strong bipartisan support with 12 Great Lakes Senators as original cosponsors.

Today, I am proud to join Senator LEVIN as an original cosponsor of NAISA which will provide a national strategy for preventing invasive species from being introduced in the Great Lakes and our Nation's waters. I am also pleased that NAISA incorporates many of the ideas from the Great Lakes Ecology Protection Act in formulating a national standard.

Invasive species have had a devastating economic and ecological impact on the U.S. They have already damaged the Great Lakes in a number of ways. They have destroyed thousands of fish and threatened our clean drinking water.

For example, Lake Michigan once housed the largest self-reproducing lake trout fishery in the entire world. The invasive sea lamprey, which was introduced from ballast water almost 80 years ago, has contributed greatly to the decline of trout and whitefish in the Great Lakes by feeding on and killing native trout species.

Today, lake trout must be stocked because they cannot naturally reproduce in the lake. Many Great Lakes States have had to place severe restrictions on catching yellow perch because invasive species such as the zebra mussel disrupt the Great Lakes' ecosystem and compete with yellow perch for food. The zebra mussel's filtration also increase water clarity, which may be making it easier for predators to prey upon the yellow perch. Moreover, tiny organisms like zooplankton that help from the base of the Great Lakes food chain, have declined due to consumption by exploding populations of zebra mussels.

We have made progress on preventing the spread of invasive species, but we have not yet solved this problem. NAISA will create a mandatory national ballast water management program to prevent the introduction of invasive species into our waters, as well as, encourage the development of new ballast treatment technology to eliminate invasive species. NAISA also will greatly increase research funding for these treatment and prevention technologies, and provide necessary funding and resources for invasive species rapid response plans. In addition, the bill will increase outreach and education to recreational boaters and the general public on how to prevent the spread of invasive species.

As Members of the U.S. Congress, we have a responsibility to share in the stewardship of our Nation's natural resources. As a Great Lakes Senator, I feel a particularly strong responsibility to protect a resource that is not only a source of clean drinking water for more than 30 million people in the Great Lakes, but is vital to Michigan's economy and environment. I am proud to support a bill that will provide innovative solutions and necessary resources to this long-standing environmental problem, and will also protect water resources for the enjoyment and benefit of future generations of Americans.

By Mr. KENNEDY (for himself, Mr. FRIST, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mr. HARKIN, Ms. COLLINS, Mr. BIDEN, Mr. BOND, Ms. LANDRIEU, Mr. REID, Mr. BINGAMAN, Mr. DODD, Mrs. CLINTON, Mr. HOLLINGS, and Mr. EDWARDS):

S. 2965. A bill to amend the Public Health Service Act to improve the quality of care for cancer, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is an honor to join my distinguished colleagues, Senators FRIST, HARKIN, HUTCHISON, BIDEN, LANDRIEU, REID, BINGAMAN, DODD, CLINTON, HOLLINGS, and EDWARDS in introducing the ''Quality of Care for Individuals with Cancer Act.''

The goal of this important bipartisan legislation is to help close the gap between what modern medicine can do today to reduce cancer deaths, and the actual medical care that cancer patients receive.

In the past two decades, the nation has made extraordinary progress in treating and curing cancer. In fact, we have made so much progress that our greatest challenges in health care today is taking the scientific breakthroughs in the laboratory and bringing them to the bedside of the patient.

Too often, we cannot say that American cancer patients are receiving the best possible care. Our goal is to match the nation's excellence in cancer research with state-of-the-art excellence in cancer care.

The reward will be seeing a young mother with breast cancer live to be a grandmother, enable a toddler with leukemia grow up to be President, or a father win the Tour de France for a fourth time.

Many examples of inadequate care could be cited. For example, only a third of all Americans over age fifty have had proper colorectal cancer screenings in the last two years. Clearly, there are far too many needless and correctable failures in our current system of cancer care.

By creating uniform ways to measure the quality of cancer care, and establishing new, improved and better coordinated ways to monitor care, we can do more to see that cancer patients receive state-of-the-art care, no matter where they live.

In response to the needs of cancer survivors, and with the help of the Lance Armstrong Foundation, this bipartisan bill will also establish new survivorship programs to facilitate the delivery of services to cancer patients and their families.

Just as importantly, we want to make the best cancer care easier for patients to obtain. Our bill will improve the networking of the doctors and other providers to whom patients go for their care.

Many of us know family members and friends suffering from cancer. We are all to familiar with the feelings of shock, denial, hope, fear, and vulnerability that comes when a loved one, especially a child, is found to have cancer.

Dealing with the challenges is never an easy task for any family. But the continuing breakthoughs in medical research make clear that much more can be done to save and enhance the lives of cancer patients. We need to do all we can to make this care available and affordable to all patients.

Make no mistake about it, we have come a long way. But much more must be done to improve the lives of cancer patients.

Mr. FRIST. Mr. President, I am pleased to join Senators KENNEDY, HUTCHISON, and others in introducing the ''Quality of Care for Individuals with Cancer Act''. This bill represents our next step in the battle against cancer. It is critical to increasing access to timely, quality health care.

Cancer is the second leading cause of death among Americans, claiming one life each minute. Most of us know someone who has cancer, or who has died from cancer. One out of every 4 Americans will die from this terrible disease. We have done a tremendous job investing in cancer research in this country. We must now make sure the knowledge gained from those investments is being applied, and that research advancements are translated into improved patient care.

If you have cancer, the quality of care you receive should not be affected by where you live, where you get your care, or whether you have health insurance coverage. You should have access to quality care whether you have just been diagnosed with cancer, are a cancer survivor, or are dying from this disease. The care given should take the patient's values and concerns into account and should be provided in a culturally competent manner.

Based on a recent Institute of Medicine's report, ''Ensuring Quality Cancer Care'', this bill would coordinate the development and collection of information on quality cancer care using quality measures that examine care from diagnosis through the end-of-life. Clearly, a better system is needed to rapidly identify the results of ongoing research with quality implications and ensure that this is transferred into daily medical practice.

Individuals with cancer receive care from a number of specialists during the course of their cancer, and the responsibility for navigating through the system often rests on the individual. Comprehensible and ongoing communication among providers, patients and caregivers is essential to coordinated care. There are two demonstration projects authorized by this legislation to help improve the coordination of care. One demonstration project provides individual case managers to better coordinate care within the health care system or to help get patients into the system. The second attempts to improve coordination between providers and hospitals so that individuals with cancer receive seamless care throughout their course of treatment.

While receiving care, some individuals with cancer do not receive care known to be effective for their condition, such as the delivery of palliative care. Much of the suffering from symptoms associated with cancer and its treatment could be alleviated if currently available symptom control measures and other aspects of palliative care were more widely used. This bill authorizes demonstration projects which will provide palliative care at any stage of cancer care and train health care providers in symptom management. The legislation also seeks to help provide better pain and other symptom relief so that individuals with cancer do not suffer the consequences of their disease or treatment.

For the nine million Americans living with cancer, this bill provide hope in improving the quality of life for individuals with cancer by translating what is already known to be effective care to all individuals with cancer. For those areas in which we need to investigate, demonstration projects will further our knowledge.

I am pleased to introduce this important legislation, and I look forward to its ultimate enactment into law. I want to thank my colleagues, Senators KENNEDY, HUTCHISON, and others, for their work on this bill. I ask that the summary, section-by-section, and list of supporting organizations be printed in the RECORD.

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

QUALITY OF CARE FOR INDIVIDUALS WITH CANCER ACT—KENNEDY-FRIST

Cancer is a dreaded disease and the second leading cause of death. Over the preceding decades much progress has been made on how to detect, treat and cure individuals who have cancer and those who are affected. But too often, the typical standards of care fall short of the best standards of care.

Unfortunately, many cancer patients are getting inappropriate care—too little care, too much care in the form of unnecessary procedures, or the wrong care. Simple screening procedures are underutilized and radical interventions are often needlessly performed. Receiving quality care should not be determined by where a patient lives, where they get their care, or whether or not they have health insurance. Unfortunately

this is not the case, and variations in quality of care can have dire outcomes. A recent study found that women on Medicaid are likely to be diagnosed with cancer at a later stage and are three times more likely to die of breast cancer than women not on Medicaid.

The problem: Even with tremendous advancements in treatment and diagnosis, individuals with cancer are still not receiving quality care. Due to lack of data, the magnitude of the problem of inadequate care is not known. Comprehensive data systems do not currently exist with which to measure quality and there is no national cancer care program or system of care within the United States.

Our solution: Collect better information to discover where problems exist and create statewide plans to address the problems. The bill will draw together Federal agencies and private entities to coordinate the development and collection of information on quality of care. States will receive funds to expand state cancer registries to collect information on quality of care and develop and improve state-wide cancer control programs that address particular needs for each state.

The Problem: Individuals with cancer often have difficulties negotiating through a complex system of care. Like other chronic illnesses, efforts to diagnose and treat cancer are centered on a variety of individual physicians and can be in multiple settings. Coordination between these entities is often lacking, and the responsibility for navigating through the system often rests on the individual with cancer. Improving coordination can save lives. Research has shown that cooperation among pediatric oncologists has resulted in cure rate increases of 30 percent even in the absence of new therapeutics to treat disease.

Our Solution: Provide case-managers to guide patients during treatment and improve the coordination of care. Two programs will be developed to help individuals with cancer receive coordinated cancer care. The first provides individual case-managers to help get patients into the system or to act as contacts throughout their care and assist with information, referrals, and care coordination within the system. The second improves coordination between doctors, hospitals, and other health care professionals so that individuals with cancer receive seamless care throughout their treatment.

The Problem: While research has produced new insights into the causes and cures of cancer, efforts to manage the symptoms of the disease and its treatments have not kept pace. Palliative care, which includes pain and symptom management and psychosocial care, is an area where individuals with cancer have traditionally received relatively poor quality care. For example, less than half of individuals with cancer who suffer from pain receive adequate relief of their pain, and only a very small percentage of cancer patients are offered referrals for palliative care.

Our Solution: Improve palliative care. The bill will develop programs to provide palliative care and train professionals to provide better palliative care for both adults and children with cancer.

The Problem: Cancer survivors continue to need quality care while living with, through, and beyond cancer. Although 1,500 people die each day from cancer, increasingly, individuals with cancer survive their disease. The more than nine million cancer survivors in the United States face unique care needs, including post-treatment programs and support, which are often inadequately addressed by a system focused on diagnosis and disease treatment.

Our Solution: Initiate programs to address the unique needs of survivors. The bill develops post-treatment programs including follow-up care and monitoring to improve the long-term quality of life for cancer survivors, including children.

The Problem: Insufficient attention is being paid to individuals with cancer in the final stages of their disease. One-half of those diagnosed with cancer die of the disease. Unfortunately, appropriate end-of-life medical and social support, which would help maximize the quality of life for these individuals and their families, is often unavailable. This is particularly true for children. Most physicians do not receive adequate training on the provision of appropriate end-of-life care. A 1998 study found that 100 percent of residents and 90 percent of attending physicians wanted more support in dealing with issues surrounding the death of a patient.

Our Solution: Avoid needless pain and suffering by improving end-of-life care. The bill provides grants to coordinate end-of-life cancer care and train health care providers in end-of-life care. Pilot programs will also be developed to address the special needs of children.

QUALITY OF CARE FOR INDIVIDUALS WITH CANCER ACT—KENNEDY-FRIST, SECTION-BY-SECTION SUMMARY

TITLE I—MEASURING THE QUALITY OF CANCER CARE

Seeks to facilitate a contract to a national consensus organization to investigate the validity of existing quality measures and to then establish recommendations for core sets of quality cancer measures. These recommendations would be published within AHRQ's annual report and, after four years, the General Accounting Office will evaluate the extent to which Federal and private sector health care delivery programs have incorporated these quality measures.

TITLE II—ENHANCING DATA COLLECTION

Serves to reauthorize the CDC's National Program of Cancer Registries, including new provisions to monitor and evaluate quality cancer care and to increase linkages with various entities to examine disparities in quality cancer care. It also authorizes the CDC's National Program of Cancer Registries—Cancer Surveillance System to advance the development, expansion, and evaluation of State registries and encourages CDC to work with states to meet North American Association of Cancer Registries certification.

TITLE III—MONITORING AND EVALUATING THE QUALITY OF CANCER CARE AND OUTCOMES

Supports research to measure, evaluate, and improve the quality of cancer care, and funds private/public partnerships to enhance the usefulness of such information, including fostering the development or adoption of model systems of care or speeding the pace of improvement in quality of cancer care.

TITLE IV—STRENGTHENING COMPREHENSIVE CANCER CONTROL

Authorizes the CDC's Comprehensive Cancer Control Program to develop an integrated and coordinated approach to cancer. The Program will establish guidelines regarding the design and implementation of state comprehensive cancer control plans, and awards grants to develop, update, implement, and evaluate such plans.

TITLE V—IMPROVING NAVIGATION AND SYSTEM COORDINATION

Provides grants to develop, implement, and evaluate case management programs to enhance the quality of cancer through improved access and navigation. Grants are also awarded to develop coordinated systems of health care providers. Finally, this title defines ''palliative care'' and ''quality of cancer care.''

TITLE VI—ESTABLISHING PROGRAMS IN PALLIATIVE CARE

Provides grants to improve palliative care for adults and children with cancer by: integrating programs, conducting outreach and educational activities, providing education and training to health care providers; designing model programs; creating pilot programs for children; and for other activities.

TITLE VII—ESTABLISHING SURVIVORSHIP PROGRAMS

Establishes demonstration programs to develop post-treatment public health programs and services including follow-up care and monitoring to support and improve the long-term quality of life for cancer survivors, including children. A focus on cancer survivorship is also added to cancer control programs.

TITLE VIII—PROGRAMS FOR END-OF-LIFE CARE

Provides grants to develop, implement, and evaluate evidence-based programs for the delivery of quality cancer care during the end-of-life to individuals with cancer (with a special emphasis on children) and their families.

TITLE IX—DEVELOPING TRAINING CURRICULA

Provides grants for the development of curricula for health care provider training regarding the assessment, monitoring, improvement, and delivery of quality of cancer care.

TITLE X—CONDUCTING REPORTS

Requires IOM reports to: evaluate Federal and State Comprehensive Cancer Control programs; evaluate the quality of cancer care medicare and medicaid beneficiaries receive and the extent to which coverage and reimbursement policies affect access to quality of cancer care; evaluate access to clinical trials; and analyze gaps in and impediments for quality of cancer care. An additional long-range IOM report will provide a follow-up assessment of the bill's success in achieving its initiatives.

ORGANIZATIONS SUPPORTING THE KENNEDY-FRIST, QUALITY OF CARE FOR INDIVIDUALS WITH CANCER ACT

Alive Hospice;
American Cancer Society;
American Pain Foundation;
American Society of Breast Disease;
The Children's Hospital at the Cleveland Clinic;
Colorectal Cancer Network;
Intercultural Cancer Council;
Lance Armstrong Foundation;
Oncology Nursing Society;
Pain Care Coalition;
Research Triangle Institute International;
Stanford University Center for Biomedical Ethics; and
Vitas Healthcare Corp.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 140—RECOGNIZING THE TEAMS AND PLAYERS OF THE NEGRO BASEBALL LEAGUES FOR THEIR ACHIEVEMENTS, DEDICATION, SACRIFICES, AND CONTRIBUTIONS TO BASEBALL AND THE NATION

Mr. SANTORUM submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 140

Whereas even though African-Americans were excluded from playing in the major

leagues of baseball with their Caucasian counterparts, the desire of some African-Americans to play baseball could not be repressed;

Whereas African-Americans began organizing their own professional baseball teams in 1885;

Whereas 6 separate baseball leagues, known collectively as the Negro Baseball Leagues, were organized by African-Americans between 1920 and 1960;

Whereas the Negro Baseball Leagues included exceptionally talented players;

Whereas Jackie Robinson, whose career began in the Negro Baseball Leagues, was named Rookie of the Year in 1947 and subsequently led the Brooklyn Dodgers to 6 National League pennants and a World Series championship;

Whereas by achieving success on the baseball field, African-American baseball players helped break down color barriers and integrate African-Americans into all aspects of society in the United States;

Whereas during World War II, more than 50 Negro Baseball League players served in the Armed Forces of the United States;

Whereas during an era of sexism and gender barriers, 3 women played in the Negro Baseball Leagues;

Whereas the Negro Baseball Leagues helped teach the people of the United States that what matters most is not the color of a person's skin, but the content of that person's character and the measure of that person's skills and abilities;

Whereas only in recent years has the history of the Negro Baseball Leagues begun receiving the recognition that it deserves; and

Whereas baseball is the national pastime and reflects the history of the Nation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to baseball and the Nation.

SENATE CONCURRENT RESOLUTION 141—CONGRATULATING THE LAWRENCE LIVERMORE NATIONAL LABORATORY, ITS STAFF, AND FORMER EMPLOYEES, ON THE OCCASION OF THE 50TH ANNIVERSARY OF THE FOUNDING OF THE LABORATORY, FOR ITS OUTSTANDING CONTRIBUTIONS TO NATIONAL SECURITY AND SCIENCE IN SERVICE TO OUR NATION

Mrs. FEINSTEIN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 141

Whereas the Lawrence Livermore National Laboratory was established in 1952 as part of the University of California Radiation Laboratory to augment the efforts of the Los Alamos National Laboratory to meet an urgent national security need and has since made important advances in nuclear weapons science and technology to keep the Nation at peace and secure;

Whereas advances by the Laboratory in nuclear weapons technology strengthened the ability of NATO to deter aggression in Europe during the Cold War and have ensured the continuing safety, security, and reliability of our Nation's nuclear weapons stockpile in the absence of nuclear testing;

Whereas the Laboratory has provided technical support to arms control negotiations and treaty implementation, including negotiations and treaties to reduce the size of nuclear arsenals, prevent the proliferation of nuclear weapons and technologies, and limit nuclear weapons testing;

Whereas the Laboratory has greatly contributed to efforts of the United States intelligence community to understand nuclear-weapons related activities worldwide, as well as to respond to nuclear emergencies through its participation in the Nuclear Emergency Search Team, its development of the National Atmospheric Release Advisory Center, and its other emergency response capabilities, which are now contributing to the war against terrorism;

Whereas Laboratory researchers have made many scientific advances, including work that won a Nobel Prize for Physics in 1998 and numerous advances in astrophysics, such as contributions to understanding supernovas, high resolution mapping of the moon, the search for dark matter in the universe, and the development of advanced technologies to improve the performance of terrestrially-based telescopes;

Whereas technology development of the Laboratory has broadly contributed to the Nation's technical prowess and the competitiveness of United States industry, as evidenced by the winning of 85 prestigious R&D 100 awards, the most by any institution, as well as by very effective long-term partnerships with the computer industry and laser and electro-optics industries;

Whereas the Laboratory has contributed to the development of technologies that offer the promise of providing energy security in the long term, including technology development for coal gasification, significant advances in fusion energy science, and international leadership in inertial confinement fusion research, and construction of large intertial confinement fusion lasers including ongoing work on the National Ignition Facility;

Whereas the Laboratory has developed novel environmental restoration technologies that are being used to rapidly clean up groundwater contamination at Superfund sites and is at the forefront of the development of simulation capabilities to better understand the Earth's climate and how it may change;

Whereas technologies developed at the Laboratory contributed to the Department of Energy's decision to launch its Human Genome Initiative in 1987, which evolved into the international Human Genome Project, the Laboratory participated in the project by mapping and sequencing chromosome 16, and continuing genetics work at the Laboratory is leading to the identification of the source of genetic diseases and to the development of improved detectors of biological agents;

Whereas the Laboratory is a valuable part of the University of California, working cooperatively with its many campuses to further higher education, contributing broadly to elementary and secondary educational efforts throughout Northern California and educational outreach directed at minority groups nationwide; and

Whereas the Laboratory has been a national resource for science and technology for 50 years dedicated to serve our Nation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress, on the occasion of the 50th anniversary of the founding of the Lawrence Livermore National Laboratory, congratulates the Laboratory, its staff, and former employees for its dedicated service to our Nation, with its outstanding contributions to national security, its tradition of scientific and technical excellence, and its continuing efforts to make the world more secure and a better place to live.

AMENDMENTS SUBMITTED & PROPOSED

SA 4563. Mr. BAYH (for himself, Mr. SHELBY, Mr. SESSIONS, Mr. HUTCHINSON, Mr. MCCONNELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes.

SA 4564. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4565. Mr. FEINGOLD (for himself, Ms. COLLINS, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4566. Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. AKAKA, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4567. Mr. LEVIN (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4568. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. REID, Mr. JEFFORDS, Mr. CARPER, and Mr. TORRICELLI) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4569. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4570. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4571. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4572. Mr. CLELAND submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4573. Mrs. BOXER (for herself, Mr. INOUYE, and Mr. CAMPBELL) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

SA 4574. Mr. BURNS (for Mr. BROWNBACK) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4575. Mr. NELSON, of Nebraska 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.

SA 4576. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4577. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the

bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4578. Mr. GRASSLEY (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4579. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4580. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4581. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4582. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4583. Mr. GRASSLEY (for himself, Mr. SESSIONS, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4584. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4585. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4586. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4587. Mr. WARNER (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4588. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4589. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4590. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4591. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4592. Mr. SCHUMER (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4593. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4594. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4595. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4596. Mrs. CLINTON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4597. Mrs. CLINTON (for herself, Mr. INHOFE, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4598. Mrs. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4599. Mr. HARKIN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4600. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4601. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4602. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4603. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4604. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4605. Mr. HUTCHINSON submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4606. Mr. HUTCHINSON submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4607. Mr. THOMAS (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4608. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4609. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4610. Mr. REID submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4611. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4612. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4613. Mr. GRASSLEY (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4614. Mr. SESSIONS (for himself, Mr. LEAHY, and Mr. NICKLES) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4615. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4616. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4617. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4618. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4619. Mr. JEFFORDS (for himself, Mr. SMITH, of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4620. Mr. LEAHY (for himself and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4621. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4622. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4623. Mr. LIEBERMAN (for himself, Mr. THOMPSON, and Mr. BURNS) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4624. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4625. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4626. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4627. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4628. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4629. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4630. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4631. Mr. LIEBERMAN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4632. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4633. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4634. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4635. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H .R. 5005, supra; which was ordered to lie on the table.

SA 4636. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H .R. 5005, supra; which was ordered to lie on the table.

SA 4637. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4638. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 4467 submitted by Mr. LIEBERMAN and intended to be proposed to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4639. Mrs. FEINSTEIN (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4640. Mrs. FEINSTEIN (for herself, Mr. BOND, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4641. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4642. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4643. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4644. Mr. BYRD proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4645. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4646. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4647. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4648. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4649. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4650. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4651. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4652. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4653. Mr. DURBIN (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4654. Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4655. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4656. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4657. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4658. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4659. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4660. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4661. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4662. Mr. SMITH, of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4663. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4664. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4665. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4666. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4667. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4668. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4669. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4670. Mr. CONRAD (for himself, Mrs. HUTCHISON, Mr. HELMS, Mr. JOHNSON, Mr. GRASSLEY, Mr. BREAUX, and Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4671. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE , Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4672. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4673. Mr. REID (for Mr. BYRD) proposed an amendment to amendment SA 4644 proposed by Mr. BYRD to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4674. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4675. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4676. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4677. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4678. Mrs. FEINSTEIN (for herself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4563. Mr. BAYH (for himself, Mr. SHELBY, Mr. SESSIONS, Mr. HUTCHINSON, Mr. MCCONNELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

On page 211, between lines 9 and 10, insert the following:

TITLE VI—STRENGTHENED TEMPORARY FLIGHT RESTRICTIONS FOR THE PROTECTION OF CHEMICAL WEAPONS STORAGE DEPOTS

SEC. 601. ENFORCEMENT OF TEMPORARY FLIGHT RESTRICTIONS.

(a) IMPROVED ENFORCEMENT.—The Secretary of Defense shall request the Administrator of the Federal Aviation Administration to enforce temporary flight restrictions applicable to Department of Defense depots for the storage of lethal chemical agents and munitions.

(b) ASSESSMENT OF USE OF COMBAT AIR PATROLS AND EXERCISES.—The Secretary shall assess the effectiveness, in terms of deterrence and capabilities for timely response, of current requirements for carrying out combat air patrols and flight training exercises involving combat aircraft over the depots referred to in such subsection.

SEC. 602. REPORTS ON UNAUTHORIZED INCURSIONS INTO RESTRICTED AIRSPACE.

(a) REQUIREMENT FOR REPORT.—The Administrator of the Federal Aviation Administration shall submit to Congress a report on each incursion of an aircraft into airspace in the vicinity of Department of Defense depots for the storage of lethal chemical agents and munitions in violation of temporary flight restrictions applicable to that airspace. The report shall include a discussion of the actions, if any, that the Administrator has taken or is taking in response to or as a result of the incursion.

(b) TIME FOR REPORT.—The report required under subsection (a) regarding an incursion described in such subsection shall be submitted not later than 30 days after the occurrence of the incursion.

SEC. 603. REVIEW AND REVISION OF TEMPORARY FLIGHT RESTRICTIONS.

(a) REQUIREMENT TO REVIEW AND REVISE.—The Secretary of Defense shall—

(1) review the temporary flight restrictions that are applicable to airspace in the vicinity of Department of Defense depots for the storage of lethal chemical agents and munitions, including altitude and radius restrictions; and

(2) request the Administrator of the Federal Aviation Administration to revise the restrictions, in coordination with the Secretary, to ensure that the restrictions are sufficient to provide an opportunity for—

(A) timely detection of incursions of aircraft into such airspace; and

(B) timely response to protect such agents and munitions effectively from threats associated with the incursions.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the actions taken under subsection (a). The report shall contain the following:

(1) The matters considered in the review required under that subsection.

(2) The revisions of temporary flight restrictions that have been made or requested as a result of the review, together with a discussion of how those revisions ensure the attainment of the objectives specified in paragraph (2) of such subsection.

SA 4564. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 13 and 14, insert the following:

SEC. 173. EMPLOYMENT LIMITATIONS.

(a) SENIOR EXECUTIVE SERVICE NONCAREER APPOINTEES.—

(1) IN GENERAL.—Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) AVERAGE NUMBER OF SENIOR EXECUTIVES.—For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) SCHEDULE C APPOINTEES.—The number of positions in the Department which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

SA 4565. Mr. FEINGOLD (for himself, Ms. COLLINS, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, strike line 17 and all that follows through page 112, line 4, and insert the following:

SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall 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;

(4) develop a process for receiving meaningful input from State and local government to assist the development of the Strategy and other homeland security activities; and

(5) prepare an annual report, that contains—

(A) 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;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) 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

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) DUTIES.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination 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;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) 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;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

(i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities .

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.—

(1) IN GENERAL.—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the ''Interagency Committee'', that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) 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 shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) 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.

(3) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee 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 shall select annually a chairperson.

(5) MEETINGS.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an Advisory Council for the Interagency Committee (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.

(B) DUTIES.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) REPRESENTATION.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(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 not less frequently than once every 3 months.

SA 4566. Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. AKAKA, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, insert between lines 9 and 10 the following:

TITLE VI—PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES

SEC. 601. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.

(a) CLARIFICATION OF DISCLOSURES COVERED.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation'';

(2) in subparagraph (B)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation (other than a violation of this section)''; and

(3) by adding at the end the following:

''(C) a disclosure that—

''(i) is made by an employee or applicant of information required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs that the employee or applicant reasonably believes is evidence of—

''(I) any violation of any law, rule, or regulation;

''(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(III) a false statement to Congress on an issue of material fact; and

''(ii) is made to—

''(I) a member of a committee of Congress having a primary responsibility for oversight of a department, agency, or element of the Federal Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;

''(II) any other Member of Congress who is authorized to receive information of the type disclosed; or

''(III) an employee of the executive branch or Congress who has the appropriate security clearance for access to the information disclosed.''.

(b) COVERED DISCLOSURES.—Section 2302(b) of title 5, United States Code, is amended—

(1) in the matter following paragraph (12), by striking ''This subsection'' and inserting the following:

''This subsection''; and

(2) by adding at the end the following:

''In this subsection, the term 'disclosure' means a formal or informal communication or transmission.''.

(c) REBUTTABLE PRESUMPTION.—Section 2302(b) of title 5, United States Code, is amended by adding after the matter following paragraph (12) (as amended by subsection (b) of this section) the following:

''For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence.''.

(d) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS; SECURITY CLEARANCES; AND RETALIATORY INVESTIGATIONS.—

(1) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x), by striking ''and'' after the semicolon; and

(B) by redesignating clause (xi) as clause (xiv) and inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement;

''(xii) a suspension, revocation, or determination relating to a security clearance;

''(xiii) an investigation of an employee or applicant for employment because of any activity protected under this section; and''.

(2) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking ''or'' at the end;

(B) in paragraph (12), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (12) the following:

''(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement:

'' 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.'; or

''(14) conduct, or cause to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section.''.

(3) BOARD AND COURT REVIEW OF ACTIONS RELATING TO SECURITY CLEARANCES.—

(A) IN GENERAL.—Chapter 77 of title 5, United States Code, is amended by inserting after section 7702 the following:

''§ 7702a. Actions relating to security clearances

''(a) In any appeal relating to the suspension, revocation, or other determination relating to a security clearance, the Merit Systems Protection Board or a court—

''(1) shall determine whether section 2302 was violated;

''(2) may not order the President to restore a security clearance; and

''(3) subject to paragraph (2), may issue declaratory relief and any other appropriate relief.

''(b)(1) If, in any final judgment, the Board or court declares that any suspension, revocation, or other determination with regards to a security clearance was made in violation of section 2302, the affected agency shall conduct a review of that suspension, revocation, or other determination, giving great weight to the Board or court judgment.

''(2) Not later than 30 days after any Board or court judgment declaring that a security clearance suspension, revocation, or other determination was made in violation of section 2302, the affected agency shall issue an unclassified report to the congressional committees of jurisdiction (with a classified annex if necessary), detailing the circumstances of the agency's security clearance suspension, revocation, or other determination. A report under this paragraph shall include any proposed agency action with regards to the security clearance.

''(c) An allegation that a security clearance was revoked or suspended in retaliation for a protected disclosure shall receive expedited review by the Office of Special Counsel, the Merit Systems Protection Board, and any reviewing court.''.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 77 of title 5, United States Code, is amended by inserting after the item relating to section 7702 the following:

''7702a. Actions relating to security clearances.''.

(e) EXCLUSION OF AGENCIES BY THE PRESIDENT.—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

''(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency; and

''(II) as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or''.

(f) ATTORNEY FEES.—Section 1204(m)(1) of title 5, United States Code, is amended by striking ''agency involved'' and inserting ''agency where the prevailing party is employed or has applied for employment''.

(g) COMPENSATORY DAMAGES.—Section 1214(g)(2) of title 5, United States Code, is amended by inserting ''compensatory or'' after ''forseeable''.

(h) DISCIPLINARY ACTION.—Section 1215 of title 5, United States Code, is amended in subsection (a), by striking paragraph (3) and inserting the following:

''(3)(A) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1000.

''(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under section 2303(b)(8) or (9), the Board shall impose disciplinary action if the Board finds that protected activity was a significant motivating factor in the decision to take, fail to take, or threaten to take or fail to take a personnel action, unless that employee demonstrates, by preponderance of evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.''.

(i) DISCLOSURES TO CONGRESS.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

''(f) Each agency shall establish a process that provides confidential advice to employees on making a lawful disclosure to Congress of information that is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.''.

(j) AUTHORITY OF SPECIAL COUNSEL RELATING TO CIVIL ACTIONS.—

(1) REPRESENTATION OF SPECIAL COUNSEL.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

''(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Special Counsel and represent the Special Counsel in any civil action brought in connection with section 2302(b)(8) or subchapter III of chapter 73, or as otherwise authorized by law.''.

(2) JUDICIAL REVIEW OF MERIT SYSTEMS PROTECTION BOARD DECISIONS.—Section 7703 of title 5, United States Code, is amended by adding at the end the following:

''(e)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Special Counsel. The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board's decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

''(2) During the 5-year period beginning on February 1, 2003, this paragraph shall apply to any review obtained by the Special Counsel. The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board's decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the court of appeals.''.

(k) JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 7703(b) of title 5, United States Code, is amended by striking paragraph (1) and inserting the following:

''(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2) of this subsection, a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.

''(B) During the 5-year period beginning on February 1, 2003, a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit or the United States Court of Appeals for the circuit in which the petitioner resides. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.''.

(2) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703 of title 5, United States Code, is amended by striking subsection (d) and inserting the following:

''(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

''(2) During the 5-year period beginning on February 1, 2003, this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in any appellate court of competent jurisdiction as provided under subsection (b)(2) if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.''.

(l) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: ''These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.''

(B) ENFORCEABILITY.—Any nondisclosure policy, form, or agreement described under subparagraph (A) that does not contain the statement required under subparagraph (A) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(2) PERSONS OTHER THAN FEDERAL EMPLOYEES.—Notwithstanding paragraph (1), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SA 4567. Mr. LEVIN (for himself and Mr. MCCONNELL, submitted an amendment intended to be proposed to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRIVATE SECURITY OFFICERS RECORD REVIEWS.

(a) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional, reliable, and responsible security officers for the protection of people, facilities, and institutions;

(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes, including terrorism;

(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(9) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(b) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term ''private security officer''—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes; but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term ''security services'' means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term ''State identification bureau'' means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(c) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, and destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTY.—Whoever falsely certifies that he meets the applicable standards for an authorized employer or who knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees pursuant to regulations promulgated under paragraph (2) to process background checks provided for by this section;

(ii) notwithstanding the provisions of section 3302 of title 31, United States Code, retain and use such fees for salaries and other expenses incurred in providing such processing; and

(iii) establish such fees at a level to include an additional amount to remain available until expended to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) STATE COSTS.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

SA 4568. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. REID, Mr. JEFFORDS, Mr. CARPER, and Mr. TORRICELLI) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 170 and insert the following:

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment;

(2) review all available information on vulnerabilities of the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) REPORT.—

(1) CONTENT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report, without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seap0ort, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible, the cost of implementing the steps.

(2) FORMAT.—The Comptroller General may submit the report in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) RESPONSE OF THE SECRETARY.—

(1) IN GENERAL.—Not alter than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) FORMATS.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) REPORTS PROVIDED TO COMMITTEES.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Transportation and Infrastructure.

SA 4569. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Insert after section 172, the following:

SEC. 173. REPEAL OF IMMUNITY FOR CUSTOMS OFFICERS IN CONDUCTING CERTAIN SEARCHES.

(a) IN GENERAL.—Section 3061 of the Revised Statutes is amended—

(1) in subsection (a), by striking ''(a)''; and

(2) by striking subsection (b).

(b) TRADE ACT OF 2002.—The Trade Act of 2002 is amended—

(1) by striking section 341; and

(2) in the table of contents, by striking the item relating to section 341.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in chapter 4 of title III of the Trade Act of 2002.

SA 4570. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 147, after line 25, add the following:

(e) INFORMATION ANALYSIS REPORT.—

(1) PURPOSES.—The purposes of this subsection are to—

(A) require the Secretary, for the first 5 years after the date of enactment of this Act, to submit a semi-annual report to Congress on—

(i) the specific policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats of terrorism against the United States and other threats to homeland security within the Federal government, including the Federal Bureau of Investigation, and between the Federal Government, State and local governments, local law enforcement, and intelligence agencies;

(ii) the specific policies and procedures for the tasking of information between the Department and the Federal Government, including the Federal Bureau of Investigation, and between the Federal Government, State and local governments, local law enforcement, and intelligence agencies; and

(iii) the nature of law enforcement information the Department has received from the Federal Bureau of Investigation and State and local law enforcement agencies;

(B) provide relevant information to Congress to assist in determining if the sharing of intelligence between the Department and the Federal Bureau of Investigation is working efficiently and effectively; and

(C) enable Congress to accurately determine if the Department is working effectively with the Federal, State, and local law enforcement agencies so that an accurate and useful exchange of information occurs between the Department and such agencies.

(2) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—The Department shall study the issues under subparagraph (B) and submit a report of such study to Congress not less than every 6 months during the 5 years following enactment of this Act, without disclosing the actual substance of any information relating to national security.

(B) ISSUES TO BE STUDIED.—The report under subparagraph (A) shall include—

(i) the policies and procedures developed by the Department—

(I) to obtain relevant information from the Federal Government (including the Federal Bureau of Investigation) and State and local law enforcement agencies;

(II) to request follow-up information and investigation from such entities; and

(III) for sharing information with other Federal, State, and local government agencies;

(ii) the specific rules and practices developed between the Department and other Federal, State, and local government agencies;

(iii) the nature and type of information—

(I) shared with Federal, State, and local government agencies; and

(II) related to law enforcement, intelligence, and homeland security that was received by the Department during the relevant reporting period, including reports, documents, summaries, tapes, and photographs;

(iv) a list of the agencies that have received information under clause (iii)(I), including whether the information was provided by the Department upon the request of such agency;

(v) a summary of the items received by the Department from the Federal Bureau of Investigation, including—

(I) individual witness grand jury transcripts;

(II) notes of witness interviews

(III) wire-tap applications;

(IV) wire-tap transcripts (including actual tapes);

(V) search warrant applications;

(VI) search warrants;

(VII) photographs;

(VIII) videos;

(IX) computer disks;

(X) summary reports; and

(XI) any other relevant items;

(vi) the nature of the follow-up requests made by the Department—

(I) for information and intelligence from the Federal Bureau of Investigation;

(II) for raw intelligence data from the Federal Bureau of Investigation; and

(III) that required additional investigation by the Federal Bureau of Investigation;

(vii) the nature of each follow-up request made by the Department to the Federal Bureau of Investigation, including whether the request related to a witness interview, subpoena information, surveillance, or undercover work;

(viii) the efforts that have been made by the Department and the Federal Bureau of Investigation to improve interdepartmental communication, including the development of computer programs to facilitate electronic communication between the Department and the Federal Bureau of Investigation;

(ix) the general nature of investigations conducted by analysts of the Department and any similar analyses performed by the Federal Bureau of Investigation; and

(x) the identification of the method of transmission of all information provided to

the Department, whether transmitted by mail, computer, or messenger.

SA 4571. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In the amendment strike all after the first word and insert the following:

SEC. ___. EMPLOYEE RIGHTS.

(a) DEFINITION.—In this section, the term ''primary job duty'' means a job duty that occupies not less than 25 percent of the job duties of an employee of the Department.

(b) TRANSFERRED AGENCIES.—The Department, or a subdivision of the Department, that includes an entity or organizational unit, or subdivision thereof, transferred under this Act, or performs functions transferred under this Act shall not be excluded from coverage of chapter 71 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.

(c) TRANSFERRED EMPLOYEES.—An employee, or class of employees who share the same job duties, transferred to the Department under this Act, 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 subsection (b)(6) of that section, unless—

(1) the primary job duty of the employee or class of employees has materially changed after the transfer;

(2) the primary job duty of the employee or class of employees after such change consists of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism; and

(3) it is demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(d) OTHER AGENCIES AND EMPLOYEES.—

(1) EXCLUSION OF SUBDIVISION.—Subject to subsection (b), a subdivision of the Department shall not be excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title, unless—

(A) the subdivision has, as a primary function, intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(B) the provisions of that chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(2) EXCLUSION OF EMPLOYEE.—Subject to subsection (c), an employee of the Department or class of employees of the Department who share the same job duties shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless—

(A) the primary job duty of the employee or class of employees consists of intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(B) it is demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(e) PRIOR EXCLUSION.—Subsections (b) through (d) shall not apply to any entity or organizational unit, or subdivision thereof, transferred to the Department under this Act that, on July 19, 2002, was excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title.

(f) REMOVAL FROM UNIT DURING PENDENCY OF PROCEEDING.—No employee or class of employees of the Department shall be a member of a unit during the pendency of any proceeding before the Federal Labor Relations Authority in which the Department has asserted that the employee or class of employees may not be included in a unit under section 7112(b)(6) of title 5, United States Code.

(g) NATIONAL SECURITY SHOWING REBUTTABLE ONLY BY CLEAR AND CONVINCING EVIDENCE.—In any proceeding referred to in subsection (f), if the Department has made the showing regarding national security as set forth in subsection (c)(3) and subsection (d)(2)(B), the showing may be rebutted only by clear and convincing evidence.

(h) EXPEDITED REVIEW.—The Authority shall grant priority consideration to a unit clarification petition with respect to which the Department asserts that any employee or class of employees may not be included in a unit under section 7112(b)(6) of title 5, United States Code. In any such proceeding, the parties shall follow the following expedited procedures:

(1) The Department shall provide any information requested by the Regional Director of the Authority within 10 days after the request is made.

(2) A hearing on the petition shall be commenced within 15 days of receipt of the requested information, if any, by the Authority and the parties.

(3) If briefs are filed after the conclusion of the hearing, the Regional Director shall issue a decision within 30 days after the receipt of the briefs, and if no briefs are filed, no later than 45 days after the conclusion of the hearings.

(4) The parties shall have 15 days to appeal after the receipt of the decision of the Regional Director.

(5) If the Authority does not accept the appeal within 30 days, the Regional Director's decision becomes final.

(6) If the Authority accepts the appeal, a decision by the Authority shall issue within 30 days.

(7) There shall be no judicial review of the decision of the Authority.

SEC. ___. PREEMPTED PROVISIONS.

Notwithstanding any other provision of this Act, including any effective date provision, the following provisions of this Act shall not take effect:

(1)§ 187(f)(1).

The provisions of this section shall take effect one day after the date of this bill's enactment.

SA 4572. Mr. CLELAND submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, strike lines 9 through 13 and insert the following:

(10) Consulting with the Centers for Disease Control and Prevention in the administration by the Centers of the Strategic National Stockpile.

On page 72, line 22, strike all through page 73, line 2.

SA 4573. Mrs. BOXER (for herself, Mr. INOUYE, and Mr. CAMPBELL) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 64, between lines 15 and 16, insert the following:

SEC. 1___. IMPERIAL PROJECT.

Notwithstanding any other provision of law, none of the funds provided by this Act or under any other Act may be used by the Secretary of the Interior to determine the validity of mining claims of, or to approve the plan of operations submitted by, the Glamis Imperial Corporation for the Imperial project, an open-pit gold mine located on public land administered by the Bureau of Land Management in Imperial County, California.

SA 4574. Mr. BURNS (for Mr. BROWNBACK) proposed an amendment to amenment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 64, between lines 15 and 16, insert the following:

SEC. 1___. EFFECT OF CERTAIN PROVISIONS ON DECISION AND INDIAN LAND.

(a) IN GENERAL.—Nothing in section 134 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (115 Stat. 443) affects the decision of the United States Court of Appeals for the 10th Circuit in Sac and Fox Nation v. Norton, 240 F.3d 1250 (2001).

(b) USE OF CERTAIN INDIAN LAND.—Nothing in this section permits the conduct of gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 944), or land that is contiguous to that land, regardless of whether the land or contiguous land has been taken into trust by the Secretary of the Interior.

SA 4575. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EMPLOYEE RIGHTS.

(a) DEFINITION.—In this section, the term ''primary job duty'' means a job duty that occupies not less than 25 percent of the job duties of an employee of the Department.

(b) TRANSFERRED AGENCIES.—The Department, or a subdivision of the Department, that includes an entity or organizational unit, or subdivision thereof, transferred under this Act, or performs functions transferred under this Act shall not be excluded from coverage of chapter 71 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.

(c) TRANSFERRED EMPLOYEES.—An employee, or class of employees who share the same job duties, transferred to the Department under this Act, 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 subsection (b)(6) of that section, unless—

(1) the primary job duty of the employee or class of employees has materially changed after the transfer;

(2) the primary job duty of the employee or class of employees after such change consists of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism; and

(3) it is demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(d) OTHER AGENCIES AND EMPLOYEES.—

(1) EXCLUSION OF SUBDIVISION.—Subject to subsection (b), a subdivision of the Department shall not be excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title, unless—

(A) the subdivision has, as a primary function, intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(B) the provisions of that chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(2) EXCLUSION OF EMPLOYEE.—Subject to subsection (c), an employee of the Department or class of employees of the Department who share the same job duties shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless—

(A) the primary job duty of the employee or class of employees consists of intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(B) it is demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(e) PRIOR EXCLUSION.—Subsections (b) through (d) shall not apply to any entity or organizational unit, or subdivision thereof, transferred to the Department under this Act that, on July 19, 2002, was excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title.

(f) REMOVAL FROM UNIT DURING PENDENCY OF PROCEEDING.—No employee or class of employees of the Department shall be a member of a unit during the pendency of any proceeding before the Federal Labor Relations Authority in which the Department has asserted that the employee or class of employees may not be included in a unit under section 7112(b)(6) of title 5, United States Code.

(g) NATIONAL SECURITY SHOWING REBUTTABLE ONLY BY CLEAR AND CONVINCING EVIDENCE.—In any proceeding referred to in subsection (f), if the Department has made the showing regarding national security as set forth in subsection (c)(3) and subsection (d)(2)(B), the showing may be rebutted only by clear and convincing evidence.

(h) EXPEDITED REVIEW.—The Authority shall grant priority consideration to a unit clarification petition with respect to which the Department asserts that any employee or class of employees may not be included in a unit under section 7112(b)(6) of title 5, United States Code. In any such proceeding, the parties shall follow the following expedited procedures:

(1) The Department shall provide any information requested by the Regional Director of the Authority within 10 days after the request is made.

(2) A hearing on the petition shall be commenced within 15 days of receipt of the requested information, if any, by the Authority and the parties.

(3) If briefs are filed after the conclusion of the hearing, the Regional Director shall issue a decision within 30 days after the receipt of the briefs, and if no briefs are filed, no later than 45 days after the conclusion of the hearings.

(4) The parties shall have 15 days to appeal after the receipt of the decision of the Regional Director.

(5) If the Authority does not accept the appeal within 30 days, the Regional Director's decision becomes final.

(6) If the Authority accepts the appeal, a decision by the Authority shall issue within 30 days.

(7) There shall be no judicial review of the decision of the Authority.

SEC. ____. PREEMPTED PROVISIONS.

Notwithstanding any other provision of this Act, including any effective date provision, the following provisions of this Act shall not take effect:

(1) Sec. 187(f)(1).

SA 4576. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. EMPLOYEE RIGHTS.

(a) DEFINITION.—In this section, the term ''primary job duty'' means a job duty that occupies not less than 25 percent of the job duties of an employee of the Department.

(b) TRANSFERRED AGENCIES.—The Department, or a subdivision of the Department, that includes an entity or organizational unit, or subdivision thereof, transferred under this Act, or performs functions transferred under this Act shall not be excluded from coverage of chapter 71 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.

(c) TRANSFERRED EMPLOYEES.—An employee, or class of employees who share the same job duties, transferred to the Department under this Act, 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 subsection (b)(6) of that section, unless—

(1) the primary job duty of the employee or class of employees has materially changed after the transfer;

(2) the primary job duty of the employee or class of employees after such change consists of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism; and

(3) it is demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(d) OTHER AGENCIES AND EMPLOYEES.—

(1) EXCLUSION OF SUBDIVISION.—Subject to subsection (b), a subdivision of the Department shall not be excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title, unless—

(A) the subdivision has, as a primary function, intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(B) the provisions of that chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(2) EXCLUSION OF EMPLOYEE.—Subject to subsection (c), an employee of the Department or class of employees of the Department who share the same job duties shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless—

(A) the primary job duty of the employee or class of employees consists of intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(B) it is demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(e) PRIOR EXCLUSION.—Subsections (b) through (d) shall not apply to any entity or organizational unit, or subdivision thereof, transferred to the Department under this Act that, on July 19, 2002, was excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title.

(f) REMOVAL FROM UNIT DURING PENDENCY OF PROCEEDING.—No employee or class of employees of the Department shall be a member of a unit during the pendency of any proceeding before the Federal Labor Relations Authority in which the Department has asserted that the employee or class of employees may not be included in a unit under section 7112(b)(6) of title 5, United States Code.

(g) NATIONAL SECURITY SHOWING REBUTTABLE ONLY BY CLEAR AND CONVINCING EVIDENCE.—In any proceeding referred to in subsection (f), if the Department has made the showing regarding national security as set forth in subsection (c)(3) and subsection (d)(2)(B), the showing may be rebutted only by clear and convincing evidence.

(h) EXPEDITED REVIEW.—The Authority shall grant priority consideration to a unit clarification petition with respect to which the Department asserts that any employee or class of employees may not be included in a unit under section 7112(b)(6) of title 5, United States Code. In any such proceeding, the parties shall follow the following expedited procedures:

(1) The Department shall provide any information requested by the Regional Director of the Authority within 10 days after the request is made.

(2) A hearing on the petition shall be commenced within 15 days of receipt of the requested information, if any, by the Authority and the parties.

(3) If briefs are filed after the conclusion of the hearing, the Regional Director shall issue a decision within 30 days after the receipt of the briefs, and if no briefs are filed, no later than 45 days after the conclusion of the hearings.

(4) The parties shall have 15 days to appeal after the receipt of the decision of the Regional Director.

(5) If the Authority does not accept the appeal within 30 days, the Regional Director's decision becomes final.

(6) If the Authority accepts the appeal, a decision by the Authority shall issue within 30 days.

(7) There shall be no judicial review of the decision of the Authority.

SEC. ____. PREEMPTED PROVISIONS.

Notwithstanding any other provision of this Act, including any effective date provision, the following provisions of this Act shall not take effect:

(1) Sec. 187(f)(1).

SA 4577. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 133(c)(4).

SA 4578. Mr. GRASSLEY (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland

Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, strike lines 10 and 11 and insert the following:

TITLE VI—FEDERAL BUREAU OF INVESTIGATION REFORM

SEC. 601. SHORT TITLE.

This title may be cited as the ''Federal Bureau of Investigation Reform Act of 2002''.

Subtitle A—Improving FBI Oversight

SEC. 611. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

''(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

''(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

''(4) may investigate allegations of criminal wrongdoing or administrative misconduct, including a failure to properly discipline employees, by a person who is the head of any agency or component of the Department of Justice; and

''(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General, who is authorized to take appropriate disciplinary action.''; and

(2) by adding at the end the following:

''(d) If the Attorney General does not follow any recommendation of the Inspector General made under subsection (b)(5), the Attorney General shall submit a report to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives that sets forth the recommendation of the Inspector General and the reasons of the Attorney General for not following that recommendation.

''(e) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice shall report that information to the Inspector General.''.

SEC. 612. REVIEW OF THE DEPARTMENT OF JUSTICE.

(a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN THE OFFICE OF INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Justice shall direct that 1 official from the office of the Inspector General be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2003.

(2) CONTINUATION OF OVERSIGHT.—The Inspector General may continue individual oversight in accordance with paragraph (1) after September 30, 2003, at the discretion of the Inspector General.

(b) INSPECTOR GENERAL OVERSIGHT PLAN FOR THE FEDERAL BUREAU OF INVESTIGATION.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives, a plan for oversight of the Federal Bureau of Investigation, which plan may include—

(1) an audit of the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation;

(2) an audit and evaluation of programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action;

(3) a review of the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility;

(4) an investigation of allegations of serious misconduct by personnel of the Federal Bureau of Investigation;

(5) a review of matters relating to any other program or operation of the Federal Bureau of Investigation that the Inspector General determines requires review; and

(6) an identification of resources needed by the Inspector General to implement a plan for oversight of the Federal Bureau of Investigation.

(c) REPORT ON INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives concerning—

(1) whether there should be established, within the Department of Justice, a separate office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation;

(2) what changes have been or should be made to the rules, regulations, policies, or practices governing the Federal Bureau of Investigation in order to assist the Office of the Inspector General in effectively exercising its authority to investigate the conduct of employees of the Federal Bureau of Investigation;

(3) what differences exist between the methods and practices used by different Department of Justice components in the investigation and adjudication of alleged misconduct by Department of Justice personnel;

(4) what steps should be or are being taken to make the methods and practices described in paragraph (3) uniform throughout the Department of Justice; and

(5) whether a set of recommended guidelines relating to the discipline of Department of Justice personnel for misconduct should be developed, and what factors, such as the nature and seriousness of the misconduct, the prior history of the employee, and the rank and seniority of the employee at the time of the misconduct, should be taken into account in establishing such recommended disciplinary guidelines.

Subtitle B—Whistleblower Protection

SEC. 621. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

''§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

''(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

''(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

''(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

''(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

''(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.''.

Subtitle C—FBI Security Career Program

SEC. 631. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 632. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this subtitle as the ''Director'') shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney General established in accordance with this title are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 633. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this title.

SEC. 634. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director, acting through the Director of Security, shall establish a security career program board to

advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 635. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this title.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 636. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this subtitle as a ''Special Agent'') is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this title are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this title with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 637. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 638. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 639. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 637 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 637 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

Subtitle D—FBI Counterintelligence Polygraph Program

SEC. 641. DEFINITIONS.

In this subtitle:

(1) POLYGRAPH PROGRAM.—The term ''polygraph program'' means the counterintelligence screening polygraph program established under section 642.

(2) POLYGRAPH REVIEW.—The term ''Polygraph Review'' means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 642. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after publication of the results of the Polygraph Review, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 643. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 644. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the

Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

Subtitle E—FBI Police

SEC. 651. DEFINITIONS.

In this subtitle:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Bureau of Investigation.

(2) FBI BUILDINGS AND GROUNDS.—

(A) IN GENERAL.—The term ''FBI buildings and grounds'' means—

(i) the whole or any part of any building or structure which is occupied under a lease or otherwise by the Federal Bureau of Investigation and is subject to supervision and control by the Federal Bureau of Investigation;

(ii) the land upon which there is situated any building or structure which is occupied wholly by the Federal Bureau of Investigation; and

(iii) any enclosed passageway connecting 2 or more buildings or structures occupied in whole or in part by the Federal Bureau of Investigation.

(B) INCLUSION.—The term ''FBI buildings and grounds'' includes adjacent streets and sidewalks not to exceed 500 feet from such property.

(3) FBI POLICE.—The term ''FBI police'' means the permanent police force established under section 652.

SEC. 652. ESTABLISHMENT OF FBI POLICE; DUTIES.

(a) IN GENERAL.—Subject to the supervision of the Attorney General, the Director may establish a permanent police force, to be known as the FBI police.

(b) DUTIES.—The FBI police shall perform such duties as the Director may prescribe in connection with the protection of persons and property within FBI buildings and grounds.

(c) UNIFORMED REPRESENTATIVE.—The Director, or designated representative duly authorized by the Attorney General, may appoint uniformed representatives of the Federal Bureau of Investigation as FBI police for duty in connection with the policing of all FBI buildings and grounds.

(d) AUTHORITY.—

(1) IN GENERAL.—In accordance with regulations prescribed by the Director and approved by the Attorney General, the FBI police may—

(A) police the FBI buildings and grounds for the purpose of protecting persons and property;

(B) in the performance of duties necessary for carrying out subparagraph (A), make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia;

(C) carry firearms as may be required for the performance of duties;

(D) prevent breaches of the peace and suppress affrays and unlawful assemblies; and

(E) hold the same powers as sheriffs and constables when policing FBI buildings and grounds.

(2) EXCEPTION.—The authority and policing powers of FBI police under this subsection shall not include the service of civil process.

(e) PAY AND BENEFITS.—

(1) IN GENERAL.—The rates of basic pay, salary schedule, pay provisions, and benefits for members of the FBI police shall be equivalent to the rates of basic pay, salary schedule, pay provisions, and benefits applicable to members of the United States Secret Service Uniformed Division.

(2) APPLICATION.—Pay and benefits for the FBI police under paragraph (1)—

(A) shall be established by regulation;

(B) shall apply with respect to pay periods beginning after January 1, 2003; and

(C) shall not result in any decrease in the rates of pay or benefits of any individual.

SEC. 653. AUTHORITY OF METROPOLITAN POLICE FORCE.

This title does not affect the authority of the Metropolitan Police Force of the District of Columbia with respect to FBI buildings and grounds.

Subtitle F—Reports

SEC. 661. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than December 31, 2002, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

SEC. 662. REPORT ON FBI INFORMATION MANAGEMENT AND TECHNOLOGY.

(a) IN GENERAL.—Not later than December 31, 2002, the Attorney General shall submit to Congress a report on the information management and technology programs of the Federal Bureau of Investigation including recommendations for any legislation that may be necessary to enhance the effectiveness of those programs.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall provide—

(1) an analysis and evaluation of whether authority for waiver of any provision of procurement law (including any regulation implementing such a law) is necessary to expeditiously and cost-effectively acquire information technology to meet the unique need of the Federal Bureau of Investigation to improve its investigative operations in order to respond better to national law enforcement, intelligence, and counterintelligence requirements;

(2) the results of the studies and audits conducted by the Strategic Management Council and the Inspector General of the Department of Justice to evaluate the information management and technology programs of the Federal Bureau of Investigation, including systems, policies, procedures, practices, and operations; and

(3) a plan for improving the information management and technology programs of the Federal Bureau of Investigation.

(c) RESULTS.—The results provided under subsection (b)(2) shall include an evaluation of—

(1) information technology procedures and practices regarding procurement, training, and systems maintenance;

(2) record keeping policies, procedures, and practices of the Federal Bureau of Investigation, focusing particularly on how information is inputted, stored, managed, utilized, and shared within the Federal Bureau of Investigation;

(3) how information in a given database is related or compared to, or integrated with, information in other technology databases within the Federal Bureau of Investigation;

(4) the effectiveness of the existing information technology infrastructure of the Federal Bureau of Investigation in supporting and accomplishing the overall mission of the Federal Bureau of Investigation;

(5) the management of information technology projects of the Federal Bureau of Investigation, focusing on how the Federal Bureau of Investigation—

(A) selects its information technology projects;

(B) ensures that projects under development deliver benefits; and

(C) ensures that completed projects deliver the expected results; and

(6) the security and access control techniques for classified and sensitive but unclassified information systems in the Federal Bureau of Investigation.

(d) CONTENTS OF PLAN.—The plan provided under subsection (b)(3) shall ensure that—

(1) appropriate key technology management positions in the Federal Bureau of Investigation are filled by personnel with experience in the commercial sector;

(2) access to the most sensitive information is audited in such a manner that suspicious activity is subject to near contemporaneous security review;

(3) critical information systems employ a public key infrastructure to validate both users and recipients of messages or records;

(4) security features are tested by the National Security Agency to meet national information systems security standards;

(5) all employees in the Federal Bureau of Investigation receive annual instruction in records and information management policies and procedures relevant to their positions;

(6) a reserve is established for research and development to guide strategic information management and technology investment decisions;

(7) unnecessary administrative requirements for software purchases under $2,000,000 are eliminated;

(8) full consideration is given to contacting with an expert technology partner to provide technical support for the information technology procurement for the Federal Bureau of Investigation;

(9) procedures are instituted to procure products and services through contracts of other agencies, as necessary; and

(10) a systems integration and test center, with the participation of field personnel, tests each series of information systems upgrades or application changes before their operational deployment to confirm that they meet proper requirements.

SEC. 663. GAO REPORT ON CRIME STATISTICS REPORTING.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the issue of how statistics are reported and used by Federal law enforcement agencies.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) identify the current regulations, procedures, internal policies, or other conditions that allow the investigation or arrest of an individual to be claimed or reported by more than 1 Federal or State agency charged with law enforcement responsibility;

(2) identify and examine the conditions that allow the investigation or arrest of an individual to be claimed or reported by the Offices of Inspectors General and any other Federal agency charged with law enforcement responsibility;

(3) examine the statistics reported by Federal law enforcement agencies, and document those instances in which more than 1 agency, bureau, or office claimed or reported the same investigation or arrest during the years 1998 through 2001;

(4) examine the issue of Federal agencies simultaneously claiming arrest credit for in-custody situations that have already occurred pursuant to a State or local agency arrest situation during the years 1998 through 2001;

(5) examine the issue of how such statistics are used for administrative and management purposes;

(6) set forth a comprehensive definition of the terms ''investigation'' and ''arrest'' as those terms apply to Federal agencies charged with law enforcement responsibilities; and

(7) include recommendations, that when implemented, would eliminate unwarranted and duplicative reporting of investigation and arrest statistics by all Federal agencies charged with law enforcement responsibilities.

(c) FEDERAL AGENCY COMPLIANCE.—Federal law enforcement agencies shall comply with requests made by the General Accounting Office for information that is necessary to assist in preparing the report required by this section.

Subtitle G—Ending the Double Standard

SEC. 671. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking ''for more than 14 days''.

SEC. 672. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

Subtitle H—Enhancing Security at the Department of Justice

SEC. 781. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than December 31, 2002, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 782. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal year 2003;

(2) $17,000,000 for fiscal year 2004; and

(3) $22,000,000 for fiscal year 2005.

SEC. 783. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal year 2003;

(2) $7,500,000 for fiscal year 2004; and

(3) $8,000,000 for fiscal year 2005.

TITLE VII—EFFECTIVE DATE

SEC. 701. EFFECTIVE DATE.

SA 4579. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL DEFENSE RAIL CONNECTION.

(a) FINDINGS.—Congress finds that—

(1) A comprehensive rail transportation network is a key element of an integrated transportation system for the North American continent, and federal leadership is required to address the needs of a reliable, safe, and secure rail network, and to connect all areas of the United States for national defense and economic development, as previously done for the interstate highway system, the Federal aviation network, and the transcontinental railroad;

(2) The creation and use of joint use corridors for rail transportation, fiber optics, pipelines, and utilities are an efficient and appropriate approach to optimizing the nation's interconnectivity and national security;

(3) Government assistance and encouragement in the development of the transcontinental rail system successfully led to the growth of economically strong and socially stable communities throughout the western United States;

(4) Government assistance and encouragement in the development of the Alaska Railroad between Seward, Alaska and Fairbanks, Alaska successfully led to the growth of economically strong and socially stable communities along the route, which today provide homes for over 70% of Alaska's total population;

(5) While alaska and the remainder of the continential United States has been connected by highway and air transportation, no rail connection exists despite the fact that Alaska is accessible by land routes and is a logical destination for the North American rail system;

(6) Rail transportation in otherwise isolated areas is an appropriate means of providing controlled areas, reducing overall impacts to environmentally sensitive areas over other methods of land-based access;

(7) Because Congress originally authorized 1,000 miles of rail line to be built in Alaska, and because of the system today covers only approximately half that distance, substantially limiting its beneficial effect on the economy of Alaska and the nation, it is appropriate to support the expansion of the Alaska system to ensure that the originally planned benefits are achieved;

(8) Alaska has an abundance of natural resources, both material and aesthetic, access to which would significantly increase Alaska's contribution to the national economy;

(9) Alaska contains many key national defense installations, including sites chosen for the construction of the first phase of the National Missile Defense system, the cost of which could be significantly reduced if rail transportation were available for the movement of materials necessary for construction and for the secure movement of launch vehicles, fuel and other operational supplies;

(10) The 106th Congress recognized the potential benefits of establishing a rail connection to Alaska by enacting legislation to authorize a U.S.—Canada bilaterail commission to study the feasibility of linking the rail system in Alaska to the nearest appropriate point in Canada of the North American rail network; and

(11) In support of pending bilaterial activities between the United States and Canada, it is appropriate for the United States to undertake activities relating to elements within the United States.

(b) IDENTIFICATION OF NATIONAL DEFENSE RAILROAD–UTILITY CORRIDOR.—

(1) Within one year from the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Transportation, the State of Alaska and the Alaska Railroad Corporation, shall identify a proposed national defense railroad-utility corridor linking the existing corridor of the Alaska Railroad to the vicinity of the proposed National Missile Defense facilities at Fort Greely, Alaska. The corridor shall be at least 500 feet wide and shall also identify land for such terminals, stations, maintenance facilities, switching yards, and material sites as are considered necessary.

(2) The identification of the corridor under paragraph (1) shall include information providing a complete legal description for and

noting the current ownership of the proposed corridor and associated land.

(3) In identifying the corridor under paragraph (1), the secretary shall consider, at a minimum, the following factors:

(A) The proximity of national defense installations and national defense considerations;

(B) The location of and access to natural resources that could contribute to economic development of the region;

(C) Grade and alignment standards that are commensurate with rail and utility construction standards and that minimize the prospect of at-grade railroad and highway crossings;

(D) Availability of construction materials;

(E) Safety;

(F) Effects on and service to adjacent communities and potential intermodal transportation connections;

(G) Environmental concerns;

(H) Use of public land to the maximum degree possible;

(I) Minimization of probable construction costs;

(J) An estimate of probable construction costs and methods of financing such costs through a combination of private, state, and federal sources; and

(K) Appropriate utility elements for the corridor, including but not limited to petroleum product pipelines, fiber-optic telecommunication facilities, and electrical power transmission lines, and

(L) Prior and established traditional uses.

(4) The Secretary may, as part of the corridor identification, include issues related to the further extension of such corridor to a connection with the nearest appropriate terminus of the North American rail network in Canada.

(c) NEGOTIATION AND LAND TRANSFER.—

(1) The Secretary of the Interior shall—

(A) upon completion of the corridor identification in subsection (b), negotiate the acquisition of any lands in the corridor which are not federally owned through an exchange for lands of equal or greater value held by the federal government elsewhere in Alaska; and

(B) upon completion of the acquisition of lands under paragraph (A), the Secretary shall convey to the Alaska Railroad Corporation, subject to valid existing rights, title to the lands identified under subsection (b) as necessary to complete the national defense railroad-utility corridor, on condition that the Alaska Railroad Corporation construct in the corridor an extension of the railroad system to the vicinity of the proposed national missile defense installation at Fort Greely, Alaska, together with such other utilities, including but not limited to fiber-optic transmission lines and electrical transmission lines, as it considers necessary and appropriate. The Federal interest in lands conveyed to the Alaska Railroad Corporation under this Act shall be the same as in lands conveyed pursuant to the Alaska Railroad Transfer Act (45 USC 1201 et seq.).

(d) APPLICABILITY OF OTHER LAWS.—

Actions authorized in this Act shall proceed immediately and to conclusion not withstanding the land-use planning provisions of Section 202 of the Federal Land Policy and Management Act of 1976, P.L. 94–579.

(E) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SA 4580. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 172. AIRLINE PASSENGER SCREENING.

Section 44901(b) of title 49, United States Code, is amended—

(1) by striking ''All screening of passengers'' and inserting:

''(1) IN GENERAL.—All screening of passengers''; and

(2) by adding at the end the following:

''(2) TREATMENT OF PASSENGERS.—Screening of passengers under this section shall be carried out in a manner that —

''(A) is not abusive or unnecessarily intrusive;

''(B) ensures protection of the passenger's personal property; and

''(C) provides adequate privacy for the passenger, if the screening involves the removal of clothing (other than shoes) or a search under the passenger's clothing.''.

SA 4581. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AGE AND OTHER LIMITATIONS.

(a) GENERAL.—Notwithstanding any other provision of law, beginning on the date that is 6 months after the date of enactment of this Act—

(1) section 121.383(c) of title 14, Code of Federal Regulations, shall not apply;

(2) no certificate holder may use the services of any person as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 63 years of age or older; and

(3) no person may serve as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 63 years of age or older.

(b) CERTIFICATE HOLDER.—For purposes of this section, the term ''certificate holder'' means a holder of a certificate to operate as an air carrier or commercial operator issued by the Federal Aviation Administration.

(c) RESERVATION OF SAFETY AUTHORITY.—Nothing in this section is intended to change the authority of the Federal Aviation Administration to take steps to ensure the safety of air transportation operations involving a pilot who has reached the age of 60, including its authority—

(1) to require such a pilot to undergo additional or more stringent medical, cognitive, or proficiency testing in order to retain certification; or

(2) to establish crew pairing standards for crews with such a pilot.

SA 4582. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FOOD AND DRINKING WATER SUPPLY SECURITY PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) section 413 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5180) authorizes the purchase of food commodities to provide adequate supplies of food for use in any area of the United States in the event of a major disaster or emergency in the area;

(2) the current terrorist threat was not envisioned when that Act was enacted, and the Act does not specifically require prepositioning of food supplies;

(3) the maintenance of safe food and drinking water supplies is essential;

(4) stored food supplies for major cities are minimal;

(5) if terrorist activity were to disrupt the transportation system, affect food supplies directly, or create a situation in which a quarantine would have to be declared, it would require a considerable period of time to ensure delivery of safe food supplies;

(6) terrorist activity could also disrupt drinking water supplies; and

(7) accordingly, emergency food and drinking water repositories should be established at such locations as will ensure the availability of food and drinking water to populations in area that are vulnerable to terrorist activity.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report with information necessary to the establishment of secure prepositioned emergency supplies of food and drinking water for major population centers for use in the event of a breakdown in the food supply and delivery chain.

(2) CONSIDERATIONS.—The report shall consider the likelihood of such breakdowns occurring from accidents and natural disasters as well as terrorist activity.

(3) CONTENTS.—The report shall—

(A) identify the 20 most vulnerable metropolitan areas or population concentrations in the United States; and

(B) make recommendations regarding the appropriate number of days' supply of food to be maintained to ensure the security of the population in each such area.

(c) REPOSITORIES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall establish secure repositories for food and drinking water in each of the 20 areas identified in the report.

(2) ACCESSIBILITY.—The repositories shall be locally accessible without special equipment in the event of a major transportation breakdown.

(d) PURCHASE OF SUPPLIES.—

(1) IN GENERAL.—The Secretary of Agriculture shall purchase and maintain food and water stock for each repository, consistent with determinations made by the Secretary of Homeland Security.

(2) PHASING IN.—Purchases and full stocking of repositories may be phased in over a period of not more than 3 years.

(2) PRODUCTS OF THE UNITED STATES.—The Secretary of Agriculture shall purchase for the repositories food and water supplies produced, processed, and packaged exclusively in the United States.

(4) SELECTION.—Food and water supplies for the repositories shall be selected and managed so as to provide—

(A) quantities and packaging suitable for immediate distribution to individuals and families;

(B) forms of food products suitable for immediate consumption in an emergency without heating and without further preparation;

(C) packaging that ensures that food products are maximally resistant to postproduction contamination or adulteration;

(D) packaging and preservation technology to ensure that the quality of stored food and

water is maintained for a minimum of 4 years at ambient temperatures;

(E) a range of food products, including meats, seafood, dairy, and vegetable (including fruit and grain) products, emphasizing, insofar as practicable—

(i) food products that meet multiple nutritional needs, such as those composed primarily of high-quality protein in combination with essential minerals; and

(ii) food products with a high ratio of nutrient value to cost;

(F) rotation of stock, in repositories on a regular basis at intervals of not longer than 3 years; and

(G) use of stocks of food being rotated out of repositories for other suitable purposes.

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

SA 4583. Mr. GRASSLEY (for himself, Mr. SESSIONS, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill (H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

SEC. 115. COUNTERNARCOTICS OFFICER.

(a) COUNTERNARCOTICS OFFICER.—The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department, and between the Department and other agencies, with respect to—

(1) interdicting the entry of illegal drugs into the United States; and

(2) tracking and severing connections between illegal drug trafficking and terrorism.

(b) DUTIES.—The official appointed under subsection (a) shall—

(1) ensure the adequacy of resources within the Department for illicit drug interdiction;

(2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy; and

(3) carry out such other duties with respect to the responsibility of the official under subsection (a) as the Secretary considers appropriate.

SA 4584. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I of division A, add the following:

SEC. 173. TRANSPORTATION SECURITY REGULATIONS.

Section 114(l)(2)(B) of title 49, United States Code, is amended—

(1) by inserting ''for a period not to exceed 30 days'' after ''effective''; and

(2) by inserting ''ratified or'' after ''unless''.

SA 4585. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 8 and 9, insert the following:

SEC. 172. REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

(a) REQUIREMENT.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

(f) EXCEPTION FOR CERTAIN FOODS.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) GEOGRAPHIC COVERAGE.—In this section, the term ''United States'' includes the possessions of the United States.

SA 4586. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In section 132(b), add at the end the following:

(14) On behalf of the Secretary, subject to disapproval by the President, directing the agencies described under subsection (a)(1)(B) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Under Secretary for Intelligence determines necessary.

SA 4587. Mr. WARNER (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, between lines 9 and 10, insert the following:

Subtitle C—Risk Sharing and Indemnification for Contractors Supplying Anti-Terrorism Technology and Services

SEC. 521. APPLICATION OF INDEMNIFICATION AUTHORITY.

(a) In General.—The President may exercise the discretionary authority to indemnify contractors and subcontractors under Public Law 85–804 (50 U.S.C. 1431 et seq.) for a procurement of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) Exercise of Authority.—In exercising the authority under subsection (a), the President may include, among other things—

(1) economic damages not fully covered by private liability insurance within the scope of the losses or damages of the indemnification coverage;

(2) a requirement that an indemnification provision included in a contract or subcontract be negotiated prior to the commencement of the performance of the contract;

(3) the coverage of information technology used to prevent, detect, identify, otherwise deter or recover from acts of terrorism; and

(4) the coverage of the United States Postal Service.

SEC. 522. APPLICATION OF INDEMNIFICATION AUTHORITY TO STATE AND LOCAL GOVERNMENT CONTRACTORS.

(a) In General.—Subject to the limitations of subsection (b), the President may exercise the discretionary authority to indemnify contractors and subcontractors under Public Law 85–804 (50 U.S.C. 1431 et seq.) for a procurement by a State or unit of local government of an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) Exercise of Authority.—The authority of subsection (a) may be exercised only—

(1) for procurements of a State or unit of local government that are made by the Secretary under contracts awarded by the Secretary pursuant to the authorities of section 523;

(2) with written approval from the Secretary, or any other official designated by the President, for each procurement in which indemnification is to be provided; and

(3) with respect to—

(A) amounts of losses or damages not fully covered by private liability insurance and State or local government-provided indemnification, and

(B) liabilities arising out of other than the contractor's willful misconduct or lack of good faith.

SEC. 523. PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND ANTI-TERRORISM SERVICES BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL CONTRACTS.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program under which States and units of local government may procure through contracts entered into by the Secretary anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) AUTHORITIES.—For the sole purposes of this program, the Secretary may, but shall not be required to, award contracts using the same authorities provided to the Administrator of General Services under section 309(b)(3) of the Federal Property and Administrative Services Act, 41 U.S.C. 259(b)(3).

(3) OFFERS NOT REQUIRED TO STATE AND LOCAL GOVERNMENTS.—A contractor that sells anti-terrorism technology or antiterrorism services to the Federal Government shall not be required to offer such technology or services to a State or unit of local government.

(b) RESPONSIBILITIES OF THE SECRETARY.—In carrying out the program established by this section, the Secretary shall—

(1) produce and maintain a catalog of anti-terrorism technologies and anti-terrorism services suitable for procurement by States and units of local government under this program; and

(2) establish procedures in accordance with subsection (c) to address the procurement of anti-terrorism technologies and anti-terrorism services by States and units of local government under contracts awarded by the Secretary.

(c) REQUIRED PROCEDURES.—The procedures required by subsection (b)(2) shall implement the following requirements and authorities.

(1) SUBMISSIONS BY STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State desiring to participate in a procurement of anti-terrorism technologies or anti-terrorism services through a contract entered into by the Secretary shall submit to the Secretary in such form and manner and at such times as the Secretary prescribes, the following:

(i) REQUEST.—A request consisting of an enumeration of the technologies or services, respectively, that are desired by the State and units of local government within the State.

(ii) PAYMENT.—Advance payment for each requested technology or service in an amount determine by the Secretary based on estimated or actual costs of the technology or service and administrative costs incurred by the Secretary.

(B) AWARD BY SECRETARY.—The Secretary may award and designate contracts under which States and units of local government may procure anti-terrorism technologies and anti-terrorism services directly from the contract holders. No indemnification may be provided under the authorities set forth in section 522 for procurements that are made directly between contractors and States or units of local government.

(2) PERMITTED CATALOG TECHNOLOGIES AND SERVICES.—A State may include in a request submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (b)(1).

(3) COORDINATION OF LOCAL REQUESTS WITHIN STATE.—The Governor of a State (or the Mayor of the District of Columbia) may establish such procedures as the Governor (or the Mayor of the District of Columbia) considers appropriate for administering and coordinating requests for anti-terrorism technologies or anti-terrorism services from units of local government within the State.

(4) SHIPMENT AND TRANSPORTATION COSTS.—A State requesting anti-terrorism technologies or anti-terrorism services shall be responsible for arranging and paying for any shipment or transportation costs necessary to deliver the technologies or services, respectively, to the State and localities within the State.

(d) REIMBURSEMENT OF ACTUAL COSTS.—In the case of a procurement made by or for a State or unit of local government under the procedure established under this section, the Secretary shall require the State or unit of local government to reimburse the Department for the actual costs it has incurred for such procurement.

(e) TIME FOR IMPLEMENTATION.—The catalog and procedures required by subsection (b) of this section shall be completed as soon as practicable and no later than 210 days after the enactment of this Act.

SEC. 524. CONGRESSIONAL NOTIFICATION.

(a) IN GENERAL.—Notwithstanding any other law, a Federal agency shall, when exercising the discretionary authority of Public Law 85–804, as amended by section 522, to indemnify contractors and subcontractors, provide written notification to the Committees identified in subsection (b) within 30 days after a contract clause is executed to provide indemnification.

(b) SUBMISSION.—The notification required by subsection (a) shall be submitted to—

(1) the Appropriations Committees of the Senate and House;

(2) the Armed Services Committees of the Senate and House;

(3) the Senate Governmental Affairs Committee; and

(4) the House Government Reform Committee.

SEC. 525. DEFINITIONS.

In this subtitle:

(1) ANTI-TERRORISM TECHNOLOGY AND SERVICE.—The terms ''anti-terrorism technology'' and ''anti-terrorism service'' mean any product, equipment, or device, including information technology, and any service, system integration, or other kind of service (including a support service), respectively, that is related to technology and is designed, developed, modified,or procured for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) ACT OF TERRORISM.—The term ''act of terrorism'' means a calculated attack or threat of attack against any person, property, or infrastructure to inculcate fear, or to intimidate or coerce a government, the civilian population, or any segment thereof, in the pursuit of political, religious, ideological objectives.

(3) INFORMATION TECHNOLOGY.—The term ''information technology'' has the meaning such term in section 11101(6) of title 40, United States Code.

(4) STATE.—The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(5) UNIT OF LOCAL GOVERNMENT.—The term ''unit of local government'' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia Government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

SA 4588. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the end of subtitle D of title I, add the following:

SEC. 173. CONFORMING AMENDMENTS REGARDING LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) TITLE 38, UNITED STATES CODE.—

(1) SECRETARY OF HOMELAND SECURITY AS HEAD OF COAST GUARD.—Title 38, United States Code, is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security'' in each of the following provisions:

(A) Section 101(25)(D).

(B) Section 1974(a)(5).

(C) Section 3002(5).

(D) Section 3011(a)(1)(A)(ii), both places it appears.

(E) Section 3012(b)(1)(A)(v).

(F) Section 3012(b)(1)(B)(ii)(V).

(G) Section 3018A(a)(3).

(H) Section 3018B(a)(1)(C).

(I) Section 3018B(a)(2)(C).

(J) Section 3018C(a)(5).

(K) Section 3020(m)(4).

(L) Section 3035(d).

(M) Section 6105(c).

(2) DEPARTMENT OF HOMELAND SECURITY AS EXECUTIVE DEPARTMENT OF COAST GUARD.—Title 38, United States Code, is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security'' in each of the following provisions:

(A) Section 1560(a).

(B) Section 3035(b)(2).

(C) Section 3035(c).

(D) Section 3035(d).

(E) Section 3035(e)(1)(C).

(F) Section 3680A(g).

(b) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—The Soldiers' and Sailors' Civil Relief Act of 1940 is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security'' in each of the following provisions:

(1) Section 105 (50 U.S.C. App. 515), both places it appears.

(2) Section 300(c) (50 U.S.C. App. 530).

(c) OTHER LAWS AND DOCUMENTS.—(1) Any reference to the Secretary of Transportation, in that Secretary's capacity as the head of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Secretary of Homeland Security.

(2) Any reference to the Department of Transportation, in its capacity as the executive department of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Department of Homeland Security.

SA 4589. Mr. BYRD submitted an amendment intended to be proposed by

him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 173. CONSTRUCTION OF AUTHORITIES OF DEPARTMENT HOMELAND SECURITY AS AUTHORIZATION FOR USE OF ARMED FORCES AS POSSE COMITATUS.

(a) CONSTRUCTION OF AUTHORITIES.—No provision of this title or amendment made by this title may be construed as an express authorization of the use of any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws as prohibited by section 1385 of title 18, United States Code.

SA 4590. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, line 10, strike ''Section 104'' and insert ''Section 401''.

On page 220, line 1, strike ''section 1111(c)'' and insert ''section 111(c)''.

SA 4591. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 105, strike line 22 and all that follows through page 106, line 2, and insert the following:

(A) DESIGNATION.—The Secretary shall designate for each State and for each city with a population of more than 900,000 not less than 1 employee of the Department to—

(i) serve as the Homeland Security Liaison Officer in that State or city; and

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SA 4592. Mr. SCHUMER (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, between lines 12 and 13, insert the following:

(n) RESEARCH AND DEVELOPMENT GRANTS FOR PORT SECURITY.—

(1) AUTHORITY.—The Secretary of Homeland Security is authorized to award grants to national laboratories, private nonprofit organizations, institutions of higher education, and other entities for the support of research and development of technologies that can be used to secure the ports of the United States.

(2) USE OF FUNDS.—Grants awarded pursuant to paragraph (1) may be used to develop technologies such as—

(A) methods to increase the ability of the Customs Service to inspect merchandise carried on any vessel that will arrive or has arrived at any port or place in the United States;

(B) equipment that accurately detects explosives, or chemical and biological agents that could be used to commit terrorist acts in the United States;

(C) equipment that accurately detects nuclear materials, including scintillation-based detection equipment capable of attachment to spreaders to signal the presence of nuclear materials during the unloading of containers;

(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including ''smart sensors'' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit such information to the appropriate authorities at a remote location;

(E) tools to mitigate the consequences of a terrorist act at a port of the United States, including a network of sensors to predict the dispersion of radiological, chemical, or biological agents that might be intentionally or accidentally released; and

(F) pilot projects that could be implemented within 12 months at 1 of the Nation's 10 largest ports to demonstrate the effectiveness of a system of radiation detection monitors located throughout the port to detect nuclear or radiological material.

(3) APPLICATIONS FOR GRANTS.—Each entity desiring a grant under this subsection shall submit an application to the Secretary of Homeland Security at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $50,000,000 for each of the fiscal years 2003 through 2007 to carry out the provisions of this subsection.

SA 4593. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 72 of the bill, line 6, after ''risk analysis and risk management activities'' insert the following: ''(including maintenance of a database of radioactive materials that may be used to produce a radiological dispersal device)''.

SA 4594. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

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

(9) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 9, strike lines 9 through 12 and insert the following:

(10) LOCAL GOVERNMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''local government'' has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(B) EXCLUSION.—The term ''local government'' does not include an Indian tribe or tribal government.

On page 9, line 13, strike ''(10)'' and insert ''(11)''.

On page 9, line 16, strike ''(11)'' and insert ''(12)''.

On page 9, line 18, strike ''(12)'' and insert ''(13)''.

On page 9, line 23, strike ''(13)'' and insert ''(14)''.

On page 10, line 1, strike ''(14)'' and insert ''(15)''.

On page 10, between lines 4 and 5, insert the following:

(16) TRIBAL COLLEGE OR UNIVERSITY.—The term ''tribal college or university'' has the meaning given the term ''tribally controlled college or university'' in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

(17) TRIBAL GOVERNMENT.—The term ''tribal government'' means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.

On page 10, line 5, strike ''(15)'' and insert ''(18)''.

On page 12, line 25, insert '', tribal,'' after ''State''.

On page 13, line 18, insert '', tribal,'' after ''State''.

On page 13, line 22, insert '', tribal,'' after ''State''.

On page 14, line 3, insert '', tribal,'' after ''State''.

On page 14, line 9, insert ''tribal,'' after ''regional,''.

On page 14, line 16, insert '', tribal,'' after ''State''.

On page 14, line 22, insert ''tribal,'' after ''regional,''.

On page 15, line 21, insert ''tribal,'' after ''State,''.

On page 16, line 2, insert '', tribal,'' after ''State''.

On page 42, line 19, insert '', tribal,'' after ''State''.

On page 55, line 3, insert '', tribal,'' after ''State''.

On page 55, line 23, insert '', tribal,'' after ''State''.

On page 56, lines 18 and 19, strike ''State and local governments, local'' and insert ''State, tribal, and local governments, tribal and local''.

On page 59, lines 10 and 11, strike ''State and local governments, local'' and insert ''State, tribal, and local governments, tribal and local''.

On page 64, line 24, insert '', tribal,'' after ''State''.

On page 69, line 12, insert '', tribal,'' after ''State''.

On page 69, line 16, insert ''tribal,'' after ''State,''.

On page 70, line 1, insert '', tribal,'' after ''State''.

On page 70, line 3, insert '', tribal,'' after ''State''.

On page 75, line 17, insert ''tribal,'' after ''State,''.

On page 78, line 18, strike ''local,'' and insert ''tribal, and local government''.

On page 79, line 1, insert ''tribal and'' after ''to assist''.

On page 85, line 18, insert ''tribal,'' after ''State,''.

On page 85, line 22, insert ''tribal colleges and universities,'' after ''universities,''.

On page 100, line 8, insert ''tribal colleges and universities and'' before ''nonprofit''.

On page 101, line 19, insert '', tribal colleges and universities,'' after ''universities''.

On page 103, line 17, insert ''tribal,'' after ''state''.

On page 103, line 20, insert '', Tribal,'' after ''State''.

On page 103, line 22, insert '', tribal,'' after ''State''.

On page 104, line 2, strike ''State and local government'' and insert ''State, tribal, and local governments''.

On page 104, line 4, strike ''State and local government'' and insert ''State, tribal, and local governments''.

On page 104, line 6, strike ''State and local government'' and insert ''State, tribal, and local governments''.

On page 104, line 10, strike ''State and local government'' and insert ''State, tribal, and local governments''.

On page 104, line 24, insert '', tribal,'' after ''State''.

On page 105, line 8, insert '', tribal,'' after ''State''.

On page 105, line 11, insert '', tribal,'' after ''State''.

On page 105, line 15, insert '', tribal,'' after ''State''.

On page 105, strike lines 19 and 20 and insert the following:

nation of Department priorities—

(I) within each State and Indian tribe;

(II) between States;

(III) between Indian tribes; and

(IV) between States and Indian tribes.

On page 105, line 23, insert ''and for each regional office of the Bureau of Indian Affairs'' after ''State''.

On page 106, line 2, insert ''or for Indian tribes covered by that regional office of the Bureau of Indian Affairs, as the case may be'' after ''State''.

On page 106, line 4, insert '', tribal,'' after ''State''.

On page 106, line 17, insert ''tribal,'' after ''State,''.

On page 106, line 22, insert '', tribal,'' after ''State''.

On page 107, line 3, insert '', tribal,'' after ''State''.

On page 107, line 6, insert '', tribal,'' after ''State''.

On page 107, line 9, insert '', tribal,'' after ''State''.

On page 107, line 16, insert '', tribal,'' after ''State''.

On page 107, line 20, insert '', tribal,'' after ''State''.

On page 108, line 6, insert ''tribal,'' after ''State,''.

On page 115, lines 23 and 24, insert ''tribal governments,'' after ''political subdivisions,''.

On page 118, line 3, insert '', tribal,'' after ''State''.

On page 121, line 15, insert '', tribal,'' after ''state''.

On page 121, line 17, insert ''tribal,'' after ''State,''.

On page 121, line 20, insert ''tribal,'' after ''State,''.

On page 121, line 23, insert ''tribal,'' after ''State,''.

On page 122, line 4, insert ''tribal,'' after ''State,''.

On page 122, line 12, insert '', tribal,'' after ''State''.

On page 134, line 24, insert '', tribal,'' after ''State''.

On page 171, line 21, insert '', tribal,'' after ''State''.

On page 171, line 22, insert '', tribal,'' after ''State''.

On page 172, line 8, insert '', tribal,'' after ''State''.

On page 172, line 18, insert '', tribal,'' after ''State''.

On page 176, line 19, insert '', tribal,'' after ''State''.

On page 187, line 1, insert '', tribal,'' after ''State''.

On page 187, line 17, insert '', tribal,'' after ''State''.

On page 238, lines 14 and 15, strike ''local or regional'' and insert ''regional, tribal, or local government''.

SA 4595. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, between lines 12 and 13, insert the following:

(14) Developing and implementing a system of Interagency Homeland Security Fusion Centers, including regional centers, which shall—

(A) be responsible for coordinating the interagency fusion of tactical homeland security intelligence;

(B) facilitate information sharing between all of the participating agencies;

(C) provide intelligence cueing to the appropriate agencies concerning threats to the homeland security of the United States;

(D) be composed of individuals designated by the Secretary, and may include representatives of—

(i) the agencies described in clauses (i) and (ii) of subsection (a)(1)(B);

(ii) agencies within the Department;

(iii) any other Federal, State, or local agency the Secretary deems necessary; and

(iv) representatives of such foreign governments as the President may direct;

(E) be established in an appropriate number to adequately accomplish their mission;

(F) operate in conjunction with or in place of other intelligence or fusion centers currently in existence; and

(G) have an implementation plan submitted to Congress no later than 1 year after the date of enactment of this Act.

SA 4596. Mrs. CLINTON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 113, between lines 15 and 16, insert the following new paragraph:

(4) as part of the overall effort to secure the United States borders, increase the security of the border between the United States and Canada and the ports of entry located along that border, and improve the coordination among the agencies responsible for maintaining that security;

SA 4597. Mrs. CLINTON (for herself, Mr. INHOFE, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Section 134(b) is amended by adding at the end the following:

(16) Coordinating existing mental health services and interventions to ensure that the Department of Health and Human Services, the Department of Education, the Department of Justice, the Department of Defense, the Federal Emergency Management Agency, and the Department of Veterans Affairs, including the National Center for Post-Traumatic Stress Disorder, in conjunction with the Department, assess, prepare, and respond to the psychological consequences of terrorist attacks or major disasters.

SA 4598. Mrs. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Section 134(b) is amended by adding at the end the following:

(16) Coordinating existing mental health services and interventions to ensure that the Department of Health and Human Services, the Department of Education, the Department of Justice, the Department of Defense, the Federal Emergency Management Agency, and the Department of Veterans Affairs, in conjunction with the Department, assess, prepare, and respond to the psychological consequences of terrorist attacks or major disasters.

SA 4599. Mr. HARKIN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

On page 42, lines 11 and 12, strike '', including agriculture and livestock,''.

On page 43, between lines 2 and 3, insert the following:

(7) Consistent with section 173, conducting agricultural import and entry inspection functions transferred under section 173.

On page 43, line 3, strike ''(7)'' and insert ''(8)''.

On page 43, strike lines 16 through 19.

On page 43, line 20, strike ''(4)'' and insert ''(3)''.

On page 43, line 22, strike ''(5)'' and insert ''(4)''.

On page 69, lines 18 and 19, strike ''providing a single staff for'' and insert ''coordinating''.

On page 71, line 3, strike ''Consulting'' and insert ''Collaborating''

On page 71, lines 8 and 9, strike ''of the Select Agent Registration Program transferred under subsection (c)(6)'' and insert ''described in subsection (c)(6)(B)''.

Beginning on page 73, strike line 23 and all that follows through page 74, line 6, and insert the following:

(6)(A) Except as provided in subparagraph (B)—

(i) the functions of the Select Agent Registration Program of the Department of Health and Human Services, including all functions of the Secretary of Health and Human Services under title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188); and

(ii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(B)(i) The Secretary shall collaborate with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as ''select agents'' in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a).

(ii) The Secretary shall collaborate with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).

(C) In promulgating regulations pursuant to the functions described in subparagraph (A), the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.

On page 137, between lines 13 and 14, insert the following:

SEC. 173. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) DEFINITION OF COVERED LAW.—In this section, the term ''covered law'' means—

(1) the first section of the Act of August 31, 1922 (commonly known as the ''Honeybee Act'') (7 U.S.C. 281);

(2) title III of the Federal Seed Act (7 U.S.C. 1581 et seq.);

(3) the Plant Protection Act (7 U.S.C. 7701 et seq.);

(4) the Animal Health Protection Act (7 U.S.C. 8301 et seq.);

(5) section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(6) the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.); and

(7) the eighth paragraph under the heading ''BUREAU OF ANIMAL INDUSTRY'' in the Act of March 4, 1913 (commonly known as the ''Virus-Serum-Toxin Act'') (21 U.S.C. 151 et seq.);

(b) TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2), there is transferred to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under each covered law.

(2) QUARANTINE ACTIVITIES.—The functions transferred under paragraph (1) shall not include any quarantine activity carried out under a covered law.

(c) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred under subsection (b) shall be exercised by the Secretary of Homeland Security in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of each covered law.

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary of Homeland Security in any case in which the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (b) under a covered law.

(3) EFFECTIVE ADMINISTRATION.—The Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred under subsection (b).

(d) TRANSFER AGREEMENT.—

(1) IN GENERAL.—Before the completion of the transition period (as defined in section 181), the Secretary of Agriculture and the Secretary of Homeland Security shall enter into an agreement to carry out this section.

(2) REQUIRED TERMS.—The agreement required by this subsection shall provide for—

(A) the supervision by the Secretary of Agriculture of the training of employees of the Secretary of Homeland Security to carry out the functions transferred under subsection (b);

(B) the transfer of funds to the Secretary of Homeland Security under subsection (e);

(C) authority under which the Secretary of Homeland Security may perform functions that—

(i) are delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants; but

(ii) are not transferred to the Secretary of Homeland Security under subsection (b); and

(D) authority under which the Secretary of Agriculture may use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(3) REVIEW AND REVISION.—After the date of execution of the agreement described in paragraph (1), the Secretary of Agriculture and the Secretary of Homeland Security—

(A) shall periodically review the agreement; and

(B) may jointly revise the agreement, as necessary.

(e) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Subject to paragraph (2), out of any funds collected as fees under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall periodically transfer to the Secretary of Homeland Security, in accordance with the agreement under subsection (d), funds for activities carried out by the Secretary of Homeland Security for which the fees were collected.

(2) LIMITATION.—The proportion of fees collected under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a) that are transferred to the Secretary of Homeland Security under paragraph (1) may not exceed the proportion that—

(A) the costs incurred by the Secretary of Homeland Security to carry out activities funded by those fees; bears to

(B) the costs incurred by the Federal Government to carry out activities funded by those fees.

(f) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period (as defined in section 181), the Secretary of Agriculture shall transfer to the Department of Homeland Security not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(g) PROTECTION OF INSPECTION ANIMALS.—

(1) DEFINITION OF SECRETARY CONCERNED.—Title V of the Agricultural Risk Protection Act of 2000 is amended—

(A) by redesignating sections 501 and 502 (7 U.S.C. 2279e, 2279f) as sections 502 and 503, respectively; and

(B) by inserting before section 502 (as redesignated by subparagraph (A)) the following:

''SEC. 501. DEFINITION OF SECRETARY CONCERNED.

''In this title, the term 'Secretary concerned' means—

''(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

''(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 502 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended—

(i) in subsection (a)—

(I) by inserting ''or the Department of Homeland Security'' after ''Department of Agriculture''; and

(II) by inserting ''or the Secretary of Homeland Security'' after ''Secretary of Agriculture''; and

(ii) by striking ''Secretary'' each place it appears (other than in subsections (a) and (e)) and inserting ''Secretary concerned''.

(B) Section 503 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended by striking ''501'' each place it appears and inserting ''502''.

(C) Section 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8411) is repealed.

SEC. 174. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term ''affected agency'' means—

(1) the Department of Homeland Security;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary of Homeland Security.

(b) COORDINATION.—Consistent with section 171, the Secretary of Homeland Security, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall ensure that appropriate information (as determined by the Secretary of Homeland Security) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

SA 4600. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XI of division B, insert the following new section:

SEC. 1124. VISA ISSUANCE.

(a) REPORT ON IDENTITY AUTHENTICATION.—Not later than 120 days after the date of enactment of this Act, the President shall submit to the appropriate committees of Congress a report regarding the establishment of an identity authentication system to screen aliens applying for visas to the United States. The report shall consider the utility of commercially available domestic and global data sources and technology and scoring and modeling methods to generate risk scores based on the information supplied by the alien.

(b) COORDINATION PLAN.—

(1) REQUIREMENT FOR PLAN.—Not later than one year after the date of enactment of this Act, the President shall develop and implement a plan based on the findings of the report under subsection (a) to establish an identity authentication system to screen aliens applying for visas to the United States. Such a system shall be consistent with title III of the Enhanced Border Security and Visa Reform Act, (Public Law 107–173). The system shall also be consistent with the Aviation Transportation and Security Act's Computer Assisted Passenger Prescreening System (CAPPS) II, e-government programs, and other appropriate programs requiring authentication of identity.

(2) CONSULTATION REQUIREMENT.—In the preparation and implementation of the plan under this subsection, the President shall consult with the appropriate committees of Congress.

(3) PROTECTION REGARDING INFORMATION AND USES THEREOF.—The plan under this subsection shall be consistent with the protections and penalties established under section 201(c) (3) and (4) of the Enhanced Border Security and Visa Reform Act, (Public Law 107–173).

(c) AUTHENTICATION.—In this section, the term ''authentication'' means a knowledge-based system that employs available personal identifying information to validate personal information supplied by an alien applying for a visa. A knowledge-based system is one where persons are recognized by demonstrating they are in possession of certain information that only that person would be expected to know.

SA 4601. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 173. NATIONAL GUARD TECHNOLOGY CENTER OF EXCELLENCE.

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

(1) The Weapons of Mass Destruction Civil Support Teams of the National Guard have a mission that differs from the warfighting mission of other units of the National Guard.

(2) The traditional approach of equipping National Guard personnel with equipment used by personnel on full-time military duty is inadequate for civil support team personnel because of the unique mission of the civil support teams.

(3) It is in the national interest that special efforts be undertaken immediately to provide the civil support teams with the technologies needed to support their unique mission.

(4) Some of the technologies needed to support the mission of the civil support teams is available commercially, while other technologies will need to be developed.

(5) The civil support teams also need cost effective, efficient training designed for their unique mission.

(6) National Guard personnel involved in other homeland security missions also require technologies and training in support of such missions.

(b) ESTABLISHMENT.—Not later than one year after the date of enactment of this Act, the Secretary shall, in coordination with the Secretary of Defense, establish a National Guard Technology Center of Excellence (in this section referred to as the ''Center'').

(c) REQUIREMENTS.—(1) The Center shall consist of a consortium of at least one national laboratory, and such universities, non-profit research institutes, and other entities, selected by the Secretary for purposes of the Center.

(2) Each laboratory or entity selected for participation in the Center shall possess significant expertise in the development of technologies for the Federal Government for homeland defense.

(3) Subject to limitations imposed by the Secretary of Defense, the Center shall have ready access to a military installation that supports the National Guard.

(d) MISSION.—The mission of the Center is as follows:

(1) To support the development and procurement of technologies for the Weapons of Mass Destruction Civil Support Teams of the National Guard, and other personnel and units of the National Guard engaged in homeland defense, for the purpose of assisting such teams in carrying out their missions.

(2) To support the development and deployment of an improved training curricula to support the Weapons of Mass Destruction Civil Support Teams of the National Guard.

(e) LEAD ENTITY.—(1) The Secretary shall designate a national laboratory, or one of the other entities, comprising the Center as lead entity of the Center. The laboratory or entity so designated shall have expertise in chemical, biological, and nuclear regimens.

(2) The entity designated under paragraph (1) shall carry out such activities in that capacity as the Secretary shall provide, including service as liaison between the Center and the Department regarding the activities of the Center.

(f) FUNDING.—There are authorized to be appropriated to the Department, for transfer to the entity designated under subsection (e)—

(1) $4,000,000 to carry out the activities described in subsection (d)(1); and

(2) $1,000,000 to carry out the activities described in subsection (d)(2).

SA 4602. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, line 3, strike ''$200,000,000'' and insert ''$500,000,000''

SA 4603. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 13 and 14, insert the following:

SEC. 173. LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT.

(a) AUTHORIZATION.—Government-owned, contractor-operated laboratories that receive funds available to the Department for national security programs are authorized to carry out laboratory-directed research and development, as defined in section 3132 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(d)).

(b) REGULATIONS.—The Secretary shall prescribe regulations for the conduct of laboratory-directed research and development at laboratories under subsection (a).

(c) FUNDING.—Of the funds provided by the Department to laboratories under subsection (a) for national security activities, the Secretary shall provide a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory-directed research and development.

SA 4604. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 75, strike lines 22 and 23, and insert the following:

technical matters relevant to homeland security;

(5) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department; and

(6) facilitating the transfer and deployment of

SA 4605. Mr. HUTCHINSON submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LAW ENFORCEMENT SUPPORT FOR JEFFERSON LABS.

(a) IN GENERAL.—The Secretary of Health and Human Services, on behalf of the United States—

(1) may relinquish to the State of Arkansas or to local government all or part of the jurisdiction of the United States over the lands and properties encompassing the Jefferson Labs campus in the State of Arkansas that are under the supervision or control of the Secretary; or

(2) may establish concurrent jurisdiction between the Federal Government and the State or local government over such lands and properties.

(b) TERMS.—Relinquishment of jurisdiction under this section may be accomplished, under terms and conditions that the Secretary deems advisable, by filing with the Governor of the State of Arkansas concerning a notice of relinquishment to take effect upon acceptance thereof.

(c) DEFINITION.—In this section, the term ''Jefferson Labs campus'' means the lands and properties of the National Center for Toxicological Research and the Arkansas Regional Laboratory.

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

SA 4606. Mr. HUTCHINSON submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 5 and 6, insert the following:

SEC. 140. VACCINE ACQUISITION COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is a Vaccine Acquisition Council within the Department of Homeland Security.

(2) COMPOSITION.—The Council shall consist of the following:

(A) Personnel of the Department of Homeland Security designated by the Secretary of Homeland Security.

(B) Representatives of the Department of Defense designated by the Secretary of Defense.

(C) Representatives of the Department of Health and Human Services designated by the Secretary of Health and Human Services.

(D) The Assistant to the President for Science and Technology.

(3) CHAIR.—The Secretary of Homeland Security shall designate an officer or employee of the Department of Homeland Security as the Chairperson of the Council.

(b) DUTIES.—The Vaccine Acquisition Council shall have the following duties:

(1) REQUIREMENTS DEFINITION.—To identify the public health requirements of the Department of Homeland Security and the Department of Health and Human Services and

the military requirements of the Department of Defense for vaccines to prevent or mitigate the physiological effects of exposure to biological warfare agents.

(2) BUDGET RECOMMENDATIONS.—To make recommendations to the Secretary of Homeland Security, the Secretary of Defense, the Secretary of Department of Health and Human Services, and the heads of other agencies of the United States regarding the funding of acquisitions of such vaccines to meet requirements.

(3) LIAISON WITH INDUSTRY.—To serve as a clearinghouse for the communication of information between agencies of the United States and private sector sources of such vaccines.

(4) COORDINATION OF ACQUISITIONS.—To coordinate the acquisition of such vaccines for meeting the requirements of the Department of Department of Homeland Security, the Department of Defense, and the Health and Human Services for the vaccines.

(5) ACQUISITION REFORM.—To make recommendations regarding reforms of acquisition policies and procedures for the acquisition of vaccines so as to simplify and expedite the meeting of requirements of the United States for the vaccines.

(6) SOLUTION OF PRODUCTION OBSTACLES.—To identify obstacles to industry support for the production of such vaccines and to propose solutions for eliminating or minimizing such obstacles.

(c) PERIODIC REPORT.—

(1) REQUIREMENT FOR REPORT.—The Vaccine Acquisition Council shall periodically submit a report on its activities to the Secretary of Homeland Security. The report shall be submitted not less frequently than once each year.

(2) TRANSMISSION TO CONGRESS.—Promptly after receiving a periodic report under paragraph (1), the Secretary shall transmit the report to Congress.

(d) DETAIL OF PERSONNEL.—The Secretary of Defense and the Secretary of Health and Human Services may each detail personnel of the Department of Defense and employees of the Department of Health and Human Services, respectively, to the Department of Homeland Security to serve with personnel of the Department of Homeland Security as the staff of the Vaccine Acquisition Council.

(e) INITIAL OPERATION.—The Secretary of Homeland Security shall ensure that the Vaccine Acquisition Council commences operations within 30 days after the effective date of this division.

SEC. 141. REQUIREMENT FOR GOVERNMENT-OWNED, CONTRACTOR-OPERATED FACILITY FOR THE PRODUCTION OF VACCINES.

(a) DOD CONTRACTOR OPERATED FACILITY.—The Secretary of Defense shall be the executive agent of the Secretary of Homeland Security to design, construct, and contract for the operation of a Government-owned facility for the production of vaccines to meet the military requirements of the Department of Defense to prevent or mitigate the physiological effects of exposure to biological warfare agents.

(b) REQUIREMENT FOR PLAN.—Not later than 60 days after the date of the enactment of this Act, the Vaccine Acquisition Council of the Department of Homeland Security shall submit to Congress a plan for the construction and operation of a vaccine production facility referred to in subsection (a). The plan shall include the following:

(1) SCHEDULE.—A schedule for the planning, design, and construction of the facility that provides for construction to begin within one year after such date.

(2) BUDGET.—A discussion of how the planning, design, and construction is to be funded to meet that schedule.

SA 4607. Mr. THOMAS (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 166, between lines 6 and 7, insert the following:

SEC. 195A. GOVERNMENT RELIANCE ON THE PRIVATE SECTOR.

(a) MARKET RESEARCH BEFORE PURCHASE.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, United States Code, the Secretary Homeland Security shall conduct market research to determine whether the Federal Prison Industries product is comparable in price, quality, and time of delivery to products available from the private sector.

(b) LIMITED COMPETITION REQUIREMENT.—If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, and time of delivery to products available from the private sector, the Secretary shall use competitive procedures for the procurement of the product. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries for award in accordance with the specifications and evaluation factors specified in the solicitation.

SA 4608. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PRIORITY FOR FINANCIAL ASSISTANCE FOR CERTAIN GENERAL AVIATION OPERATIONS AND RELATED SERVICES.

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ECONOMIC INJURIES.—The term ''economic injuries'' means expenses sustained, during a period in which a Federal agency has taken an action described in subsection (a), by a general aviation business that would otherwise be paid with income that is lost as a direct result of the Federal agency action.

(2) FEDERAL AGENCY.—The term ''Federal agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(3) GENERAL AVIATION BUSINESS.—The term ''general aviation business'' means any entity engaged in sales, service, maintenance, manufacturing, flight training, aircraft rental, or storage at an airport affected by federally imposed prohibitions on access to airspace.

(b) IN GENERAL.—Notwithstanding any other provision of law, if a Federal agency takes any action, unrelated to the conduct of the affected business, that prohibits general aviation operations or access to air space and results in a general aviation business from operating, the Administrator of the Small Business Administration shall give immediate priority to any general aviation business affected by such action for loan programs under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) to assist such business to recover from economic injuries sustained as a result of such action by the Federal agency.

(c) GUIDELINES FOR APPLICATIONS.—Not later than 14 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall establish and publish, in the Federal Register, guidelines for the submission of applications for economic injury disaster loans and other financial recovery services.

(d) REQUIRED GOVERNMENT ACTION.—In any case in which a Federal agency takes action to prohibit general aviation operations or to prohibit access to air space which results in a general aviation business not being able to operate, the Federal agency shall provide the affected businesses with—

(1) specific justification for prohibiting operations or access to air space; and

(2) weekly updates as to when operations or access can be expected to resume.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to any action described in subsection (b) taken on or after September 11, 2001.

SA 4609. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, beginning with line 3, strike all through page 30, line 21, and insert the following:

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ASSISTANT IG.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Civil Rights and Civil Liberties who shall have experience and demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) DUTIES.—The Assistant Inspector General for Civil Rights and Civil Liberties shall—

(A) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) if appropriate, investigate such complaints in a timely manner;

(C) publicize in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the official; and

(ii) instructions on how to contact the official; and

(D) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection;

(ii) detailing any civil rights abuses under paragraph (1); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

''SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

''SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the 'Inspector General') shall be under the authority, direction, and control of the Secretary

of Homeland Security (in this section referred to as the 'Secretary') with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

''(A) intelligence or counterintelligence matters;

''(B) ongoing criminal investigations or proceedings;

''(C) undercover operations;

''(D) the identity of confidential sources, including protected witnesses;

''(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

''(i) section 3056 of title 18, United States Code;

''(ii) section 202 of title 3, United States Code; or

''(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

''(F) other matters the disclosure of which would constitute a serious threat to national security.

''(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

''(A) prevent the disclosure of any information described under paragraph (1); and

''(B) preserve vital national security interests.''.

SA 4610. Mr. REID submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, insert between lines 19 and 20 the following:

(e) JOINT SPONSORSHIP AGREEMENTS.—The Secretary may enter into joint sponsorship agreements under section 135(j)(2) for sites used for emergency preparedness and response training.

On page 74, line 20, strike ''(e)'' and insert ''(f)''.

SA 4611. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 4, strike all through page 173, line 14, and insert the following:

SEC. 100. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) AGENCY.—Except for purposes of subtitle 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

(B) does not include the General Accounting Office.

(2) ASSETS.—The term ''assets'' includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security established under title I.

(4) ENTERPRISE ARCHITECTURE.—The term ''enterprise architecture''—

(A) means—

(i) a strategic information asset base, which defines the mission;

(ii) the information necessary to perform the mission;

(iii) the technologies necessary to perform the mission; and

(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan.

(5) FUNCTIONS.—The term ''functions'' includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(6) HOMELAND.—The term ''homeland'' means the United States, in a geographic sense.

(7) HOMELAND SECURITY.—The term ''homeland security'' means a concerted national effort to—

(A) prevent terrorist attacks within the United States;

(B) reduce America's vulnerability to terrorism; and

(C) minimize the damage and recover from terrorist attacks that do occur.

(8) 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).

(9) 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.

(10) PERSONNEL.—The term ''personnel'' means officers and employees.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(12) UNITED STATES.—The term ''United States'', when used in a geographic sense, means any State (within the meaning of section 102(4) 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 National Homeland Security.

(b) EXECUTIVE DEPARTMENT.—Section 101 of title 5, United States Code, is amended by adding at the end the following:

''The Department of Homeland Security.''.

(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;

(C) reduce 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. This 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. All authorities, functions, and responsibilities transferred to the Department shall be vested in the Secretary.

(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 a comprehensive strategy for combating terrorism and the homeland security response.

(4) To make budget recommendations relating to border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion 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 supporting 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 promote key scientific and technological advances that will enhance homeland security.

(9) To include, as appropriate, State and local governments and other 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, to ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities; and

(D) systematically identifying and removing obstacles to developing effective partnerships between the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities, the private sector, other entities, and the public to secure the homeland.

(10)(A) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to homeland security.

(B) To consult and coordinate with the Secretary of Defense regarding the training of personnel to respond to terrorist attacks involving chemical or biological agents.

(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 public threat advisories, and (in coordination with other agencies) providing specific 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 support 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) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) To report to Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 182; and

(B) each biennial report required under section 192(b).

(c) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

''(5) the Secretary of Homeland Security; and

''(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.''.

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 report to the Secretary, who may assign to the Under Secretary such functions related to the management and administration of the Department as the Secretary may prescribe, including—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 105. ASSISTANT SECRETARIES.

(a) IN GENERAL.—There shall be in the Department not more than 5 Assistant Secretaries (not including the 2 Assistant Secretaries appointed under division B), each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall describe the general responsibilities that such appointee will exercise upon taking office.

(2) ASSIGNMENT.—Subject to paragraph (1), the Secretary shall assign to each Assistant Secretary such functions as the Secretary considers appropriate.

SEC. 106. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting ''Homeland Security,'' after ''Health and Human Services,''; and

(2) in paragraph (2), by inserting ''Homeland Security,'' after ''Health and Human Services,''.

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

''SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the ''Inspector General'') shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the ''Secretary'') with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

''(A) intelligence or counterintelligence matters;

''(B) ongoing criminal investigations or proceedings;

''(C) undercover operations;

''(D) the identity of confidential sources, including protected witnesses;

''(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

''(i) section 3056 of title 18, United States Code;

''(ii) section 202 of title 3, United States Code; or

''(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

''(F) other matters the disclosure of which would constitute a serious threat to national security.

''(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

''(A) prevent the disclosure of any information described under paragraph (1);

''(B) preserve the national security; or

''(C) prevent significant impairment to the national interests of the United States.

''(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

''(A) the President of the Senate;

''(B) the Speaker of the House of Representatives;

''(C) the Committee on Governmental Affairs of the Senate;

''(D) the Committee on Government Reform of the House of Representatives; and

''(E) other appropriate committees or subcommittees of Congress.

''(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

''(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

''(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

''(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

''(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

''(1) the President of the Senate;

''(2) the Speaker of the House of Representatives;

''(3) the Committee on Governmental Affairs of the Senate; and

''(4) the Committee on Government Reform of the House of Representatives.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking ''8F'' each place it appears and inserting ''8G''; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking ''or 8H'' and inserting '', 8H, or 8I''.''

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(b) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

''(G) The Department of Homeland Security.''.

SEC. 108. CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Information Officer, who shall be designated in the manner prescribed under section 3506(a)(2)(A) of title 44, United States Code.

(b) RESPONSIBILITIES.—The Chief Information Officer shall assist the Secretary with Department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

SEC. 109. GENERAL COUNSEL.

(a) IN GENERAL.—There shall be in the Department 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) serve as the chief legal officer of the Department;

(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) ensuring 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 officers of the Department in ensuring that the workforce of the Department has the necessary skills and training, and that the recruitment and retention policies of the Department allow the Department to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the Department to achieve its missions;

(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; and

(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 within the Office of the Secretary, 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 exchange shall include—

(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 demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

SEC. 114. EXECUTIVE SCHEDULE POSITIONS.

(a) EXECUTIVE SCHEDULE LEVEL I POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

''Secretary of Homeland Security.''.

(b) EXECUTIVE SCHEDULE LEVEL II POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Secretary of Homeland Security.''.

(c) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary for Management, Department of Homeland Security.''.

(d) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—Section 5315 of title 5, United States

Code, is amended by adding at the end the following:

''Assistant Secretaries of Homeland Security (5).

''Inspector General, Department of Homeland Security.

''Chief Financial Officer, Department of Homeland Security.

''Chief Information Officer, Department of Homeland Security.

''General Counsel, Department of Homeland Security.''.

Subtitle B—Establishment of Directorates and Offices

SEC. 131. DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Border and Transportation Protection.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Border and Transportation, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) EXERCISE OF CUSTOMS REVENUE AUTHORITY.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—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 this 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 of proposed 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:

(A) The Tariff Act of 1930 (19 U.S.C. 1304 et seq.).

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(J) The Trade Agreements Act of 1979 (19 U.S.C. 2502 et seq.).

(K) The North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 et seq.).

(L) The Uruguay Round Agreements Act (19 U.S.C. 3501 et seq.).

(M) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

(N) The Andean Trade Preference Act (19 U.S.C. 3201 et seq.).

(O) The African Growth and Opportunity Act (19 U.S.C. 3701 et seq.).

(P) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) DEFINITION OF CUSTOMS REVENUE FUNCTIONS.—In this subsection, 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, and providing Customs Recordations for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

(d) 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) Marine 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) MAINTENANCE OF STATUS 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 specified in subsequent Acts.

(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 of 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 state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot 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 that shall assess thoroughly 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 Reform 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. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—There is established within the Department a Directorate 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 for the purpose of supporting the mission of the Department.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 133. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(b) 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.

SEC. 134. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.

(a) ESTABLISHMENT.—There is established within the Department a Directorate of Science and Technology.

(b) 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. The principal responsibility of the Under Secretary shall be to effectively and efficiently carry out the purposes of the Directorate of Science and Technology.

SEC. 136. DIRECTORATE OF IMMIGRATION AFFAIRS.

The Directorate of Immigration Affairs shall be established and shall carry out all functions 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 the Office 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 to assist the development of the national strategy for combating terrorism and other homeland security activities.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) CHIEF HOMELAND SECURITY LIAISON OFFICER.—

(A) APPOINTMENT.—The Secretary shall appoint a Chief Homeland Security Liaison Officer to coordinate the activities of the Homeland Security Liaison Officers, designated under paragraph (2).

(B) ANNUAL REPORT.—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 or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(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 Department priorities within each State and between the States.

(2) HOMELAND SECURITY LIAISON OFFICERS.—

(A) DESIGNATION.—The Secretary shall designate in each State not less than 1 employee of the Department to—

(i) serve as the Homeland Security Liaison Officer in that State; and

(ii) provide coordination 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 or 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;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) 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 a 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;

(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. 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 frequently 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 in 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. 139. LEGISLATIVE PROPOSALS AND SUPPORTING AND ENABLING LEGISLATION.

(a) DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.—Not earlier than February 3, 2003, the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Border and Transportation Protection; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Border and Transportation Protection, to provide for homeland security.

(b) DIRECTORATE OF INTELLIGENCE AND DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.—Not earlier than 120 days after the submission of the proposals and recommendations under subsection (a), the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Intelligence and the Directorate of Critical Infrastructure Protection; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Intelligence and the Directorate of Critical Infrastructure Protection, to provide for homeland security.

(c) DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE AND DIRECTORATE OF SCIENCE AND TECHNOLOGY.—Not earlier than 120 days after the submission of the proposals and recommendations under subsection (b), the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Emergency Preparedness and Response and the Directorate of Science and Technology; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Emergency Preparedness and Response and the Directorate of Science and Technology, to provide for homeland security.

(d) SAVINGS AND ADMINISTRATIVE PROVISIONS OF SUPPORTING AND ENABLING LEGISLATION.—Sections 183, 184, and 194 shall apply to any supporting and enabling legislation described under subsection (a), (b), or (c) enacted after the date of enactment of this Act.

SEC. 140. EXECUTIVE SCHEDULE POSITIONS.

Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary for Border and Transportation, 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 task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to homeland security.

(c) DUTIES.—

(1) DISSEMINATION OF INFORMATION.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) CENTER.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a 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 heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) BEST PRACTICES INFORMATION.—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 private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness.

(b) 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 and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) FEDERAL SHARE.—The Federal share of the cost described in subsection (a) shall be 50 percent, up to a maximum of $250,000 per grant recipient.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) NATIONAL WEEK.—

(1) DESIGNATION.—Each week that includes September 11 is ''National Emergency Preparedness Week''.

(2) 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.

(b) FEDERAL AGENCY ACTIVITIES.—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

Subtitle D—Miscellaneous Provisions

SEC. 161. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

(a) ESTABLISHMENT.—There is established within the Department of Defense a National Bio-Weapons Defense Analysis Center (in this section referred to as the ''Center'').

(b) 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 1403 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—

(1) 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

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness 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) CONTENTS.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section 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 and recommendations of the Department to further protect the food supply from contamination.

SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN AGENCIES AND 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 cooperatively can learn from one another and resolve complex issues;

(3) Federal, State, and local employees have specialized knowledge that should be consistently shared between and among agencies at all levels of government; 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.

(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. 164. WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 620; 49 U.S.C. 44935 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 44935 of title 49, United States Code; or

''(ii) an applicant for the position of a security screener under that subsection.

''(B) IN GENERAL.—Notwithstanding paragraph (1)—

''(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

''(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

''(C) COVERED POSITION.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.''.

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'' and inserting the following:

''(a) DISCRIMINATION AGAINST EMPLOYEES.—

''(1) IN GENERAL.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:

''(2) APPLICABLE EMPLOYERS.—Paragraph (1) shall apply to—

''(A) an air carrier or contractor or subcontractor of an air carrier;

''(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

''(C) an employer of private screening personnel described in section 44919 or 44920 of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking ''paragraphs (1) through (4) of subsection (a)'' and inserting ''subparagraphs (A) through (D) of subsection (a)(1)''; and

(2) in clause (iii), by striking ''paragraphs (1) through (4) of subsection (a)'' and inserting ''subparagraphs (A) through (D) of subsection (a)(1)''.

SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472–4) 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 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.

''(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

''(3) RESPONSIBILITIES.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

''(A) The Bioterrorism Preparedness and Response Program.

''(B) The Strategic National Stockpile.

''(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

''(4) DIRECTOR.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

''(5) STAFFING.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

''(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

''(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.''.

SEC. 167. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Secretary under section 102(b)(14) 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) 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 under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), 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 returning 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.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

''(c) PERSONNEL GRANTS.—

''(1) EXCLUSION.—Grants awarded under subsection (b) to hire 'employees engaged in fire protection', as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203), shall not be subject to paragraphs (10) or (11) of subsection (b).

''(2) DURATION.—Grants awarded under paragraph (1) shall be for a 3-year period.

''(3) MAXIMUM AMOUNT.—The total amount of grants awarded under paragraph (1) shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

''(4) FEDERAL SHARE.—

''(A) IN GENERAL.—Notwithstanding subsection (b)(6), the Federal share of a grant under paragraph (1) shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

''(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

''(5) APPLICATION.—In addition to the information under subsection (b)(5), an application for a grant under paragraph (1), shall include—

''(A) an explanation for the need for Federal assistance; and

''(B) specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

''(6) MAINTENANCE OF EFFORT.—Grants awarded under paragraph (1) shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources.''; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

''(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).''.

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS.—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;

(2) review all available information on vulnerabilities at aviation, seaport, rail and transit facilities; and

(3) review the steps taken by agencies since September 11, 2001, to improve aviation, seaport, rail, and transit security to determine their effectiveness at protecting passengers and transportation infrastructure from terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress and the Secretary a comprehensive report containing—

(1) the findings and conclusions from the reviews conducted under subsection (a); and

(2) proposed steps to improve any deficiencies found in aviation, seaport, rail, and transit security including, to the extent possible, the cost of implementing the steps.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section 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) recommendations of 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—

(1) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(2) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(b) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan referred to in subsection (a).

(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).

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (a)(1).

(e) CONTENT.—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.

(f) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under subsection (a), as necessary.

(g) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(h) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(i) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the duties of the Director under this section.

SEC. 172. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection

(b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

(e) EFFECTIVE DATE.—This section shall take effect 1 day after the date of enactment of this Act.

SEC. 173. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''March 31, 2004''.

Subtitle E—Transition Provisions

SEC. 181. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term ''agency'' includes any entity, organizational unit, or function transferred or to be transferred under this title.

(2) TRANSITION PERIOD.—The term ''transition period'' means the 1-year period beginning on the effective date of this division.

SEC. 182. 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 and XI, including fulfillment of the functions transferred under this Act, and shall include all of the information specified under paragraph (2) that the Secretary has gathered as of the date of submission. Information contained in an earlier report may be referenced, rather than set out in full, in a subsequent report. The final implementation progress report shall include any required information not yet provided.

(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 transition;

(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 executives;

(v) the location of Department headquarters, including a timeframe for relocating to the new location, an estimate of cost for the relocation, 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 any gaps, and to plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department;

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(iii) plans or progress reports on the utilization by the Department of existing personnel flexibility, provided by law or through regulations of the President and the Office of Personnel Management, to achieve the human capital needs of the Department;

(iv) any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation under this division of functions, entities, and personnel previously covered by disparate personnel systems; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibility;

(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; and

(iv) recommendations of any entities, organizational units, or functions not related to homeland security transferred to the Department that need to be transferred from the Department or terminated for the Department to function effectively.

(d) LEGISLATIVE RECOMMENDATIONS.—

(1) INCLUSION IN REPORT.—The Secretary, after consultation with the appropriate committees of Congress, shall include in the report under this section, recommendations for legislation that the Secretary determines is necessary to—

(A) facilitate the integration of transferred entities, organizational units, and functions into the Department;

(B) reorganize agencies, executive positions, and the assignment of functions within the Department;

(C) address any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation of agencies, functions, and personnel previously covered by disparate personnel systems;

(D) enable the Secretary to engage in procurement essential to the mission of the Department;

(E) otherwise help further the mission of the Department; and

(F) make technical and conforming amendments to existing law to reflect the changes made by titles I and XI.

(2) SEPARATE SUBMISSION OF PROPOSED LEGISLATION.—The Secretary may submit the proposed legislation under paragraph (1) to Congress before submitting the balance of the report under this section.

SEC. 183. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time this division takes effect, or were final before the effective date of this division and are to become effective on or after the effective date of this division,

shall, to the extent related to such functions, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary or other authorized official, or a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or

revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(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) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual in the official capacity of such 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 relating to a function transferred under this title may be continued by the Department with the same effect as if this title had not been enacted.

(f) EMPLOYMENT AND PERSONNEL.—

(1) EMPLOYEE RIGHTS.—

(A) TRANSFERRED AGENCIES.—The Department, or a subdivision of the Department, that includes an entity or organizational unit, or subdivision thereof, transferred under this Act, or performs functions transferred under this Act shall not be excluded from coverage of chapter 71 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.

(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 subsection (b)(6) of that section unless—

(i) the primary job duty of the employee is materially changed after the transfer; and

(ii) the primary job duty of the employee after such change consists of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism, if it is clearly demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(C) TRANSFERRED FUNCTIONS.—An employee of the Department who is primarily engaged in carrying out a function transferred to the Department under this Act or a function substantially similar to a function so transferred shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless the function prior to the transfer was performed by an employee excluded from a unit under that section.

(D) OTHER AGENCIES, EMPLOYEES, AND FUNCTIONS.—

(i) EXCLUSION OF SUBDIVISION.—Subject to paragraph (A), a subdivision of the Department shall not be excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title unless—

(I) the subdivision has, as a primary function, intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(II) the provisions of that chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(ii) EXCLUSION OF EMPLOYEE.—Subject to subparagraphs (B) and (C), an employee of the Department shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless the primary job duty of the employee consists of intelligence, counterintelligence, or investigative duties directly related to terrorism investigation, if it is clearly demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(E) PRIOR EXCLUSION.—Subparagraphs (A) through (D) shall not apply to any entity or organizational unit, or subdivision thereof, transferred to the Department under this Act that, on July 19, 2002, was excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title.

(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.

(3) 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 to the Department 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 to apply with respect to any appointment to the position made after such transfer to the Department has occurred.

(4) 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.

(g) NO EFFECT ON INTELLIGENCE AUTHORITIES.—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 the National Security Act of 1947, 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. 184. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY 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, use, 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.

(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 the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; 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 transferred to, or otherwise made available to, the Department may be used during the transition period for purposes in addition to those for which they were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations 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 may not be accepted, used, or 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 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004.

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; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) OFFICERS.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) INTERUNIT DELEGATION.—Any function assigned by this title 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 and XI. Not later than 15 months after the effective date of this division, and every year thereafter for the succeeding 5 years, the Comptroller General shall submit a report to Congress containing—

(1) an evaluation of the implementation progress reports submitted to Congress and the Comptroller General by the Secretary under section 182;

(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

(3) any recommendations for legislation or administrative action the Comptroller General considers appropriate.

(b) BIENNIAL 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) POINT OF ENTRY 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) RESULTS-BASED MANAGEMENT.—

(1) STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than September 30, 2003, consistent with the requirements of section 306 of title 5, 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; REVISIONS.—The strategic plan shall cover a period of not less than 5 years from the fiscal year in which it is submitted and it shall be updated and revised at least every 3 years.

(C) CONTENTS.—The strategic plan shall describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(2) PERFORMANCE PLAN.—

(A) IN GENERAL.—In accordance with 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 the goals; and

(iii) the means used to verify and validate measured values.

(C) SCOPE.—The performance plan should describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(3) PERFORMANCE REPORT.—

(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 received under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a et seq.).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (48 Stat. 948, chapter 482; 40 U.S.C. 276c).

SEC. 195. PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the head of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organizational structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each Under Secretary shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SEC. 196. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, and each budget request submitted to Congress for the National Terrorism Prevention and Response Program shall be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and the fiscal year 2005 budget request for the National Terrorism Prevention and Response Program, and for any subsequent fiscal year.

SEC. 197. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term ''critical infrastructure'' has the meaning given that term in section 1016(e) of the USA PATRIOT ACT of 2001 (42 U.S.C. 5195(e)).

(2) FURNISHED VOLUNTARILY.—

(A) DEFINITION.—The term ''furnished voluntarily'' means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) BENEFIT.—In this paragraph, the term ''benefit'' does not include any warning, alert, or other risk analysis by the Department.

(b) IN GENERAL.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) RECORDS SHARED WITH OTHER AGENCIES.—

(1) IN GENERAL.—

(A) RESPONSE TO REQUEST.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SEGREGABLE PORTION OF RECORD.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED RECORDS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNATION.—The provider of a record that is furnished voluntarily to the Department under

subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 198. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to—

(1) enable the Secretary to administer and manage the Department; and

(2) carry out the functions of the Department other than those transferred to the Department under this Act.

SA 4612. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 10 through 13, and insert the following:

homeland threats;

(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; and

(E) to the extent practicable, ensure the speedy, orderly, safe, and efficient flow of lawful traffic, travel, and commerce.

On page 25, between lines 11 and 12, insert the following:

(e) SPECIAL ASSISTANT TO THE SECRETARY.—

(1) RESPONSIBILITIES.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(A) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(B) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(C) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(D) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(E) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(F) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(2) DUPLICATION OF FUNCTIONS.—The Special Assistant to the Secretary shall avoid duplication of functions performed by the Directorate of Science of Technology in accordance with section 135.

SA 4613. Mr. GRASSLEY (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

FEDERAL BUREAU OF INVESTIGATION REFORM

SEC. 601. SHORT TITLE.

This title may be cited as the ''Federal Bureau of Investigation Reform Act of 2002''.

Subtitle A—Improving FBI Oversight

SEC. 611. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

''(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

''(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

''(4) may investigate allegations of criminal wrongdoing or administrative misconduct, including a failure to properly discipline employees, by a person who is the head of any agency or component of the Department of Justice; and

''(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General, who is authorized to take appropriate disciplinary action.''; and

(2) by adding at the end the following:

''(d) If the Attorney General does not follow any recommendation of the Inspector General made under subsection (b)(5), the Attorney General shall submit a report to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives that sets forth the recommendation of the Inspector General and the reasons of the Attorney General for not following that recommendation.

''(e) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice shall report that information to the Inspector General.''.

SEC. 612. REVIEW OF THE DEPARTMENT OF JUSTICE.

(a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN THE OFFICE OF INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Justice shall direct that 1 official from the office of the Inspector General be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2003.

(2) CONTINUATION OF OVERSIGHT.—The Inspector General may continue individual oversight in accordance with paragraph (1) after September 30, 2003, at the discretion of the Inspector General.

(b) INSPECTOR GENERAL OVERSIGHT PLAN FOR THE FEDERAL BUREAU OF INVESTIGATION.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives, a plan for oversight of the Federal Bureau of Investigation, which plan may include—

(1) an audit of the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation;

(2) an audit and evaluation of programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action;

(3) a review of the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility;

(4) an investigation of allegations of serious misconduct by personnel of the Federal Bureau of Investigation;

(5) a review of matters relating to any other program or operation of the Federal Bureau of Investigation that the Inspector General determines requires review; and

(6) an identification of resources needed by the Inspector General to implement a plan for oversight of the Federal Bureau of Investigation.

(c) REPORT ON INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives concerning—

(1) whether there should be established, within the Department of Justice, a separate

office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation;

(2) what changes have been or should be made to the rules, regulations, policies, or practices governing the Federal Bureau of Investigation in order to assist the Office of the Inspector General in effectively exercising its authority to investigate the conduct of employees of the Federal Bureau of Investigation;

(3) what differences exist between the methods and practices used by different Department of Justice components in the investigation and adjudication of alleged misconduct by Department of Justice personnel;

(4) what steps should be or are being taken to make the methods and practices described in paragraph (3) uniform throughout the Department of Justice; and

(5) whether a set of recommended guidelines relating to the discipline of Department of Justice personnel for misconduct should be developed, and what factors, such as the nature and seriousness of the misconduct, the prior history of the employee, and the rank and seniority of the employee at the time of the misconduct, should be taken into account in establishing such recommended disciplinary guidelines.

Subtitle B—Whistleblower Protection

SEC. 621. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

"§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

''(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

''(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

''(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

''(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

''(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.''.

Subtitle C—FBI Security Career Program

SEC. 631. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 632. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this subtitle as the ''Director'') shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney General established in accordance with this title are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 633. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this title.

SEC. 634. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director, acting through the Director of Security, shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 635. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this title.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 636. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this subtitle as a ''Special Agent'') is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this title are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this title with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit

system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 637. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 638. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 639. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 637 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 637 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

Subtitle D—FBI Counterintelligence Polygraph Program

SEC. 641. DEFINITIONS.

In this subtitle:

(1) POLYGRAPH PROGRAM.—The term ''polygraph program'' means the counterintelligence screening polygraph program established under section 642.

(2) POLYGRAPH REVIEW.—The term ''Polygraph Review'' means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 642. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after publication of the results of the Polygraph Review, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 643. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 644. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

Subtitle E—FBI Police

SEC. 651. DEFINITIONS.

In this subtitle:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Bureau of Investigation.

(2) FBI BUILDINGS AND GROUNDS.—

(A) IN GENERAL.—The term ''FBI buildings and grounds'' means—

(i) the whole or any part of any building or structure which is occupied under a lease or otherwise by the Federal Bureau of Investigation and is subject to supervision and control by the Federal Bureau of Investigation;

(ii) the land upon which there is situated any building or structure which is occupied wholly by the Federal Bureau of Investigation; and

(iii) any enclosed passageway connecting 2 or more buildings or structures occupied in whole or in part by the Federal Bureau of Investigation.

(B) INCLUSION.—The term ''FBI buildings and grounds'' includes adjacent streets and sidewalks not to exceed 500 feet from such property.

(3) FBI POLICE.—The term ''FBI police'' means the permanent police force established under section 652.

SEC. 652. ESTABLISHMENT OF FBI POLICE; DUTIES.

(a) IN GENERAL.—Subject to the supervision of the Attorney General, the Director may establish a permanent police force, to be known as the FBI police.

(b) DUTIES.—The FBI police shall perform such duties as the Director may prescribe in connection with the protection of persons and property within FBI buildings and grounds.

(c) UNIFORMED REPRESENTATIVE.—The Director, or designated representative duly authorized by the Attorney General, may appoint uniformed representatives of the Federal Bureau of Investigation as FBI police for duty in connection with the policing of all FBI buildings and grounds.

(d) AUTHORITY.—

(1) IN GENERAL.—In accordance with regulations prescribed by the Director and approved by the Attorney General, the FBI police may—

(A) police the FBI buildings and grounds for the purpose of protecting persons and property;

(B) in the performance of duties necessary for carrying out subparagraph (A), make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia;

(C) carry firearms as may be required for the performance of duties;

(D) prevent breaches of the peace and suppress affrays and unlawful assemblies; and

(E) hold the same powers as sheriffs and constables when policing FBI buildings and grounds.

(2) EXCEPTION.—The authority and policing powers of FBI police under this subsection shall not include the service of civil process.

(e) PAY AND BENEFITS.—

(1) IN GENERAL.—The rates of basic pay, salary schedule, pay provisions, and benefits for members of the FBI police shall be equivalent to the rates of basic pay, salary schedule, pay provisions, and benefits applicable to members of the United States Secret Service Uniformed Division.

(2) APPLICATION.—Pay and benefits for the FBI police under paragraph (1)—

(A) shall be established by regulation;

(B) shall apply with respect to pay periods beginning after January 1, 2003; and

(C) shall not result in any decrease in the rates of pay or benefits of any individual.

SEC. 653. AUTHORITY OF METROPOLITAN POLICE FORCE.

This title does not affect the authority of the Metropolitan Police Force of the District of Columbia with respect to FBI buildings and grounds.

Subtitle F—Reports

SEC. 661. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than December 31, 2002, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source

of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

SEC. 662. REPORT ON FBI INFORMATION MANAGEMENT AND TECHNOLOGY.

(a) IN GENERAL.—Not later than December 31, 2002, the Attorney General shall submit to Congress a report on the information management and technology programs of the Federal Bureau of Investigation including recommendations for any legislation that may be necessary to enhance the effectiveness of those programs.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall provide—

(1) an analysis and evaluation of whether authority for waiver of any provision of procurement law (including any regulation implementing such a law) is necessary to expeditiously and cost-effectively acquire information technology to meet the unique need of the Federal Bureau of Investigation to improve its investigative operations in order to respond better to national law enforcement, intelligence, and counterintelligence requirements;

(2) the results of the studies and audits conducted by the Strategic Management Council and the Inspector General of the Department of Justice to evaluate the information management and technology programs of the Federal Bureau of Investigation, including systems, policies, procedures, practices, and operations; and

(3) a plan for improving the information management and technology programs of the Federal Bureau of Investigation.

(c) RESULTS.—The results provided under subsection (b)(2) shall include an evaluation of—

(1) information technology procedures and practices regarding procurement, training, and systems maintenance;

(2) record keeping policies, procedures, and practices of the Federal Bureau of Investigation, focusing particularly on how information is inputted, stored, managed, utilized, and shared within the Federal Bureau of Investigation;

(3) how information in a given database is related or compared to, or integrated with, information in other technology databases within the Federal Bureau of Investigation;

(4) the effectiveness of the existing information technology infrastructure of the Federal Bureau of Investigation in supporting and accomplishing the overall mission of the Federal Bureau of Investigation;

(5) the management of information technology projects of the Federal Bureau of Investigation, focusing on how the Federal Bureau of Investigation—

(A) selects its information technology projects;

(B) ensures that projects under development deliver benefits; and

(C) ensures that completed projects deliver the expected results; and

(6) the security and access control techniques for classified and sensitive but unclassified information systems in the Federal Bureau of Investigation.

(d) CONTENTS OF PLAN.—The plan provided under subsection (b)(3) shall ensure that—

(1) appropriate key technology management positions in the Federal Bureau of Investigation are filled by personnel with experience in the commercial sector;

(2) access to the most sensitive information is audited in such a manner that suspicious activity is subject to near contemporaneous security review;

(3) critical information systems employ a public key infrastructure to validate both users and recipients of messages or records;

(4) security features are tested by the National Security Agency to meet national information systems security standards;

(5) all employees in the Federal Bureau of Investigation receive annual instruction in records and information management policies and procedures relevant to their positions;

(6) a reserve is established for research and development to guide strategic information management and technology investment decisions;

(7) unnecessary administrative requirements for software purchases under $2,000,000 are eliminated;

(8) full consideration is given to contacting with an expert technology partner to provide technical support for the information technology procurement for the Federal Bureau of Investigation;

(9) procedures are instituted to procure products and services through contracts of other agencies, as necessary; and

(10) a systems integration and test center, with the participation of field personnel, tests each series of information systems upgrades or application changes before their operational deployment to confirm that they meet proper requirements.

SEC. 663. GAO REPORT ON CRIME STATISTICS REPORTING.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the issue of how statistics are reported and used by Federal law enforcement agencies.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) identify the current regulations, procedures, internal policies, or other conditions that allow the investigation or arrest of an individual to be claimed or reported by more than 1 Federal or State agency charged with law enforcement responsibility;

(2) identify and examine the conditions that allow the investigation or arrest of an individual to be claimed or reported by the Offices of Inspectors General and any other Federal agency charged with law enforcement responsibility;

(3) examine the statistics reported by Federal law enforcement agencies, and document those instances in which more than 1 agency, bureau, or office claimed or reported the same investigation or arrest during the years 1998 through 2001;

(4) examine the issue of Federal agencies simultaneously claiming arrest credit for in-custody situations that have already occurred pursuant to a State or local agency arrest situation during the years 1998 through 2001;

(5) examine the issue of how such statistics are used for administrative and management purposes;

(6) set forth a comprehensive definition of the terms ''investigation'' and ''arrest'' as those terms apply to Federal agencies charged with law enforcement responsibilities; and

(7) include recommendations, that when implemented, would eliminate unwarranted and duplicative reporting of investigation and arrest statistics by all Federal agencies charged with law enforcement responsibilities.

(c) FEDERAL AGENCY COMPLIANCE.—Federal law enforcement agencies shall comply with requests made by the General Accounting Office for information that is necessary to assist in preparing the report required by this section.

Subtitle G—Ending the Double Standard

SEC. 671. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking ''for more than 14 days''.

SEC. 672. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

Subtitle H—Enhancing Security at the Department of Justice

SEC. 781. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than December 31, 2002, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 782. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist

threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal year 2003;

(2) $17,000,000 for fiscal year 2004; and

(3) $22,000,000 for fiscal year 2005.

SEC. 783. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal year 2003;

(2) $7,500,000 for fiscal year 2004; and

(3) $8,000,000 for fiscal year 2005.

EFFECTIVE DATE

SEC. 701. EFFECTIVE DATE.

SA 4516. Mr. SESSIONS (for himself, Mr. LEAHY, and Mr. NICKLES) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 2302 add the following:

Sec. 173. For purposes of this section, ''total payment'' shall not include any amount received from a Johnny Micheal Spann Patriot Trust as defined herein:

(a) FINDINGS.—Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism launched by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a $6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a ''Johnny Micheal Spann Patriot Trust''.

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation;

(D) employees and contractors of the Department of Homeland Security; and

(E) officers, employees, contract employees, of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, law enforcement operations, or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107–40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) No part of the activities of any Johnny Micheal Spann Patriot Trust shall be used for distributing propaganda or otherwise attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, the Secretary of Homeland Security, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than $1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in subsection (c)(1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in subsection (c)(1).

(10) Each Johnny Micheal Spann Patriot Trust shall comply with the applicable provisions of the Federal Election Campaign Act of 1971 such that general solicitations of funds by federal elected officials will comply with paragraph (4)(A) of section 323(e) of the Federal Election Campaign Act of 1971 (as added by section 101(a) of the Bipartisan Campaign Reform Act of 2002, Public Law No. 107–155; 116 Stat. 81). Such Trust if such individual discloses the general purpose of the solicitation.

(d) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods, sensitive law enforcement information, and other sensitive national security information the Secretary of Defense, the Director of the Federal Bureau of Investigation, the Secretary of Homeland Security, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), (D), or (E) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust; provided that, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

(e) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, the Secretary of Homeland Security, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

SA 4615. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1105(a), add the following:

''(h) For the purposes of subsection (b)(2)(c) the 'removal function' shall include the establishment of the following pilot program:

''(a) ESTABLISHMENT OF PILOT PROGRAM.—The Commissioner of Immigration and Naturalization shall establish a pilot program of cooperation between inspectors of the Immigration and Naturalization Service and State

and local law enforcement officials that uses video conferencing—

''(1) to evaluate the legal status of aliens in the custody of State and local law enforcement; and

''(2) to initiate deportation proceedings under the Immigration and Nationality Act where warranted.

''(b) IMPLEMENTATION.—The pilot program described in subsection (a) shall include at least ten States. States selected to participate should be those with the largest number of violations of the Immigration and Nationality Act.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 to 2007 to carry out this section.''.

SA 4616. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1105(a), add the following:

''(g) For purposes of subsection (b)(2)(B) of this section, the ''detention function'' shall include the following:

''(1) IN GENERAL.—Whenever a State or local law enforcement official detains an individual with reasonable belief that the individual is removable from the United States under section 237 and immediately notifies the Service of such detention, the Commissioner shall, within 48 hours of that notification—

''(A) inform the State or local law enforcement official in writing that the individual is not unlawfully present in the United States and does not pose a danger to the public; or

''(B) take physical custody of the individual from the State or local law enforcement official.

''(2) TRANSPORTATION.—If the Service fails to comply with subsection (a) within 48 hours of notification, the Commissioner shall—

''(A) accept custody of the individual at the nearest regional office of the Service; and

''(B) promptly reimburse the State or local law enforcement official for the cost of transporting the individual to the regional office by public or private means.''.

''(3) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated to the Secretary $1,000,000 for each of the fiscal years 2003 through 2007 to carry out section 236C of the Immigration and Nationality Act, as added by subsection (a).

''(B) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.''

''Sec. 236C. Taking custody of aliens detained by State or local law enforcement officials.''.

SA 4617. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, strike lines 14 through page 69, line 7 and insert the following:

SEC. 134. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) HOMELAND SECURITY DUTIES.—

(1) IN GENERAL.—The Federal Emergency Management Agency shall be responsible for the emergency preparedness and response functions of the Department.

(2) FUNCTION.—Except as provided in paragraph (3) and subsections (b) through (e), nothing in this Act affects the administration or administrative jurisdiction of the Federal Emergency Management Agency as in existence on the day before the date of enactment of this Act.

(3) DIRECTOR.—In carrying out responsibilities of the Federal Emergency Management Agency under all applicable law, the Director of the Federal Emergency Management Agency shall report—

(A) to the President directly, with respect to all matters relating to a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) to the Secretary, with respect to all other matters.

(b) SPECIFIC RESPONSIBILITIES.—The Director of the Federal Emergency Management Agency shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities of the Department.

SA 4618. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 8, strike ''terrorism, natural disasters,'' and insert ''terrorism''.

On page 11, strike lines 6 through 13 and insert the following:

homeland threats within the United States; and

(C) reduce the vulnerability of the United States to terrorism and other homeland threats.

On page 12, line 23, strike ''emergency preparedness and response,''.

On page 13, strike lines 3 through 5 and insert the following:

transportation security and critical infrastructure protection.

On page 15, line 14, insert ''and the Director of the Federal Emergency Management Agency'' after ''Defense''.

On page 16, strike lines 13 through 16.

On page 16, line 17, strike ''(15)'' and insert ''(14)''.

On page 16, line 20, strike ''(16)'' and insert ''(15)''.

On page 16, line 24, strike ''(17)'' and insert ''(16)''.

On page 17, line 4, strike ''(18)'' and insert ''(17)''.

On page 17, line 8, strike ''(19)'' and insert ''(18)''.

Beginning on page 68, strike line 14 and all that follows through page 75, line 3.

On page 75, line 3, strike ''135'' and insert 134''.

On page 103, line 13, strike ''136'' and insert 135''.

On page 103, line 17, strike ''137'' and insert 136''.

On page 109, line 10, strike ''of the Department''.

On page 112, line 5, strike ''138'' and insert 137''.

On page 112, line 10, strike ''139'' and insert 138''.

On page 112, between lines 4 and 5, insert the following:

(f) COORDINATION WITH FEDERAL EMERGENCY MANAGEMENT AGENCY.—

(1) IN GENERAL.—In carrying out all responsibilities of the Secretary under this section, the Secretary shall coordinate with the Director of the Federal Emergency Management Agency.

(2) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting ''incident of terrorism,'' after ''drought),''.

On page 114, line 6, strike ''140'' and insert 139''.

On page 114, strike lines 13 and 14.

On page 115, line 3, strike ''in the Department'' and insert ''within the Federal Emergency Management Agency''.

On page 116, line 21, strike ''Department'' and insert ''Federal Emergency Management Agency''.

Beginning on page 128, strike line 22 and all that follows through page 129, line 5, and insert the following:

(a) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this section.

(b) PUBLIC HEALTH EMERGENCY.—During the

On page 129, strike lines 15 and 16 and insert the following:

(c) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving,

On page 186, line 25, and page 187, line 1, strike ''emergency preparation and response,''.

On page 187, insert ''emergency preparedness and response,'' after ''assets,''.

Beginning on page 161, strike line 19 and all that follows through page 162, line 2, and insert the following:

(b) BIENNIAL REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report assessing the resources and requirements of executive agencies relating to border security.

SA 4619. Mr. JEFFORDS (for himself and Mr. SMITH of New Hamsphire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

Subtitle G—First Responder Terrorism Preparedness

SEC. 199A. SHORT TITLE.

This subtitle may be cited as the ''First Responder Terrorism Preparedness Act of 2002''.

SEC. 199B. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

SEC. 199C. DEFINITIONS.

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting ''incident of terrorism,'' after ''drought),''.

(b) WEAPON OF MASS DESTRUCTION.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

''(11) WEAPON OF MASS DESTRUCTION.—The term 'weapon of mass destruction' has the meaning given the term in section 2302 of title 50, United States Code.''.

SEC. 199D. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

''SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

''(a) IN GENERAL.—There is established in the Federal Emergency Management Agency an office to be known as the 'Office of National Preparedness' (referred to in this section as the 'Office').

''(b) APPOINTMENT OF ASSOCIATE DIRECTOR.—

''(1) IN GENERAL.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) COMPENSATION.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(c) DUTIES.—The Office shall—

''(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government;

''(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

''(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

''(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

''(5) establish standards for a national, interoperable emergency communications and warning system;

''(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

''(7) carry out such other related activities as are approved by the Director.

''(d) DESIGNATION OF REGIONAL CONTACTS.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

''(e) USE OF EXISTING RESOURCES.—In carrying out this section, the Associate Director shall—

''(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

''(2) consult with and use—

''(A) existing Federal interagency boards and committees;

''(B) existing government agencies; and

''(C) nongovernmental organizations.''.

SEC. 199E. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

''SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

''(a) DEFINITIONS.—In this section:

''(1) FIRST RESPONDER.—The term 'first responder' means—

''(A) fire, emergency medical service, and law enforcement personnel; and

''(B) such other personnel as are identified by the Director.

''(2) LOCAL ENTITY.—The term 'local entity' has the meaning given the term by regulation promulgated by the Director.

''(3) PROGRAM.—The term 'program' means the program established under subsection (b).

''(b) PROGRAM TO PROVIDE ASSISTANCE.—

''(1) IN GENERAL.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

''(2) FEDERAL SHARE.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

''(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

''(A) grants; and

''(B) such other forms of assistance as the Director determines to be appropriate.

''(c) USES OF ASSISTANCE.—Assistance provided under subsection (b)—

''(1) shall be used—

''(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

''(B) to train first responders, consistent with guidelines and standards developed by the Director;

''(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

''(D) to develop, construct, or upgrade emergency operating centers;

''(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

''(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

''(G) to conduct exercises; and

''(H) to carry out such other related activities as are approved by the Director; and

''(2) shall not be used to provide compensation to first responders (including payment for overtime).

''(d) ALLOCATION OF FUNDS.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

''(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, $3,000,000; and

''(2) to each State (other than a State specified in paragraph (1))—

''(A) a base amount of $15,000,000; and

''(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

''(i) population;

''(ii) location of vital infrastructure, including—

''(I) military installations;

''(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

''(III) nuclear power plants;

''(IV) chemical plants; and

''(V) national landmarks; and

''(iii) proximity to international borders.

''(e) PROVISION OF FUNDS TO LOCAL GOVERNMENTS AND LOCAL ENTITIES.—

''(1) IN GENERAL.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

''(2) ALLOCATION OF FUNDS.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

''(3) DEADLINE FOR PROVISION OF FUNDS.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

''(4) COORDINATION.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

''(f) ADMINISTRATIVE EXPENSES.—

''(1) DIRECTOR.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

''(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

''(B)(i) for fiscal year 2003, $75,000,000; and

''(ii) for each of fiscal years 2004 through 2006, $50,000,000.

''(2) RECIPIENTS OF ASSISTANCE.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

''(g) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

''(h) REPORTS.—

''(1) ANNUAL REPORT TO THE DIRECTOR.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

''(2) EXERCISE AND REPORT TO CONGRESS.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

''(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

''(B) submit a report on the results of the exercise to—

''(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

''(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

''(i) COORDINATION.—

''(1) WITH FEDERAL AGENCIES.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

''(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360));

''(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

''(C) other appropriate Federal agencies.

''(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

''(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

''(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.''.

(b) COST SHARING FOR EMERGENCY OPERATING CENTERS.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting ''(other than section 630)'' after ''carry out this title''; and

(2) by inserting ''(other than section 630)'' after ''under this title''.

SEC. 199F. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199E(a)) is amended by adding at the end the following:

''SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

''(a) DEFINITIONS.—In this section:

''(1) FIRST RESPONDER.—The term 'first responder' has the meaning given the term in section 630(a).

''(2) HARMFUL SUBSTANCE.—The term 'harmful substance' means a substance that the President determines may be harmful to human health.

''(3) PROGRAM.—The term 'program' means a program described in subsection (b)(1).

''(b) PROGRAM.—

''(1) IN GENERAL.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

''(2) ACTIVITIES.—A program shall include—

''(A) collection and analysis of environmental and exposure data;

''(B) development and dissemination of educational materials;

''(C) provision of information on releases of a harmful substance;

''(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

''(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

''(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

''(3) PARTICIPATION IN REGISTRIES AND STUDIES.—

''(A) IN GENERAL.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

''(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

''(4) COOPERATIVE AGREEMENTS.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

''(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

''(B) experienced in the area of environmental or occupational health and safety, including experience in—

''(i) conducting long-term epidemiological studies;

''(ii) conducting long-term mental health studies; and

''(iii) establishing and maintaining environmental exposure or disease registries.

''(c) REPORTS AND RESPONSES TO STUDIES.—

''(1) REPORTS.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4), shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

''(2) CHANGES IN PROCEDURES.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).''.

SEC. 199G. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199F) is amended by adding at the end the following:

''SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

''(a) DEFINITIONS.—In this section:

''(1) URBAN SEARCH AND RESCUE EQUIPMENT.—The term 'urban search and rescue equipment' means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

''(2) URBAN SEARCH AND RESCUE TASK FORCE.—The term 'urban search and rescue task force' means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

''(b) ASSISTANCE.—

''(1) MANDATORY GRANTS FOR COSTS OF OPERATIONS.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than $1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

''(2) DISCRETIONARY GRANTS.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

''(A) operations in excess of the funds provided under paragraph (1);

''(B) urban search and rescue equipment;

''(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

''(D) training, including training for operating in an environment described in subparagraph (C);

''(E) transportation;

''(F) expansion of the urban search and rescue task force; and

''(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

''(3) PRIORITY FOR FUNDING.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

''(c) GRANT REQUIREMENTS.—The Director shall establish such requirements as are necessary to provide grants under this section.

''(d) ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.—

''(1) IN GENERAL.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

''(2) REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.''.

SEC. 199H. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

''(2) PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.—There are authorized to be appropriated to carry out section 630—

''(A) $3,340,000,000 for fiscal year 2003; and

''(B) $3,458,000,000 for each of fiscal years 2004 through 2006.

''(3) URBAN SEARCH AND RESCUE TASK FORCES.—

''(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

''(i) $160,000,000 for fiscal year 2003; and

''(ii) $42,000,000 for each of fiscal years 2004 through 2006.

''(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.''.

SA 4620. Mr. LEAHY (for himself and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, strike lines 10 and 11 and insert the following:

TITLE VI—LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2002

SEC. 601. SHORT TITLE.

This title may be cited as the ''Law Enforcement Officers Safety Act of 2002''.

SEC. 602. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

''§ 926B. Carrying of concealed firearms by qualified law enforcement officers

''(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

''(b) This section shall not be construed to supersede or limit the laws of any State that—

''(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

''(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

''(c) As used in this section, the term 'qualified law enforcement officer' means an employee of a governmental agency who—

''(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

''(2) is authorized by the agency to carry a firearm;

''(3) is not the subject of any disciplinary action by the agency; and

''(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm.

''(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926A the following:

''926B. Carrying of concealed firearms by qualified law enforcement officers.''.

SEC. 603. EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is further amended by inserting after section 926B the following:

''§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers

''(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

''(b) This section shall not be construed to supersede or limit the laws of any State that—

''(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

''(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

''(c) As used in this section, the term 'qualified retired law enforcement officer' means an individual who—

''(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

''(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

''(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 5 years or more; or

''(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

''(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

''(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training or qualification to carry firearms; and

''(6) is not prohibited by Federal law from receiving a firearm.

''(d) The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is further amended by inserting after the item relating to section 926B the following:

''926C. Carrying of concealed firearms by qualified retired law enforcement officers.''.

SA 4621. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill (H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. CONGRESSIONAL APPROVAL REQUIREMENT FOR TIPS.

Any and all activities of the Federal Government to implement the proposed component program of the Citizens Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited, unless expressly authorized by statute.

SA 4622. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 173. ASSESSMENT OF TRANSFER OF JURISDICTION OF NATIONAL SECURITY EDUCATION PROGRAM TO DEPARTMENT OF HOMELAND SECURITY.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and Secretary of Homeland Security shall jointly submit to Congress a report assessing the feasibility and advisability of transferring jurisdiction of the National Security Education Program under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) from the Department of Defense to the Department of Homeland Security. The report shall address whether or not the transfer will contribute significantly to meeting the purposes of the National Security Education Program under section 801(c) of that Act (50 U.S.C. 1901(c)).

SA 4623. Mr. LIEBERMAN (for himself, Mr. THOMPSON, and Mr. BURNS) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the end, insert the following:

DIVISION D—E-GOVERNMENT ACT OF 2002

SEC. 3001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''E-Government Act of 2002''.

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

Sec. 3001. Short title; table of contents.
Sec. 3002. Findings and purposes.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 3101. Management and promotion of electronic Government services.
Sec. 3102. Conforming amendments.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 3201. Definitions.
Sec. 3202. Federal agency responsibilities.
Sec. 3203. Compatibility of Executive agency methods for use and acceptance of electronic signatures.
Sec. 3204. Federal Internet portal.
Sec. 3205. Federal courts.
Sec. 3206. Regulatory agencies.
Sec. 3207. Accessibility, usability, and preservation of Government information.
Sec. 3208. Privacy provisions.
Sec. 3209. Federal Information Technology workforce development.
Sec. 3210. Common protocols for geographic information systems.
Sec. 3211. Share-in-savings program improvements.
Sec. 3212. Integrated reporting study and pilot projects.
Sec. 3213. Community technology centers.
Sec. 3214. Enhancing crisis management through advanced information technology.
Sec. 3215. Disparities in access to the Internet.
Sec. 3216. Notification of obsolete or counterproductive provisions.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

Sec. 3301. Information security.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 3401. Authorization of appropriations.
Sec. 3402. Effective dates.

SEC. 3002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this division are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decision-making by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 3101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

"CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

''Sec.
''3601. Definitions.
''3602. Office of Electronic Government.
''3603. Chief Information Officers Council.
''3604. E-Government Fund.
''3605. E-Government report.

"§ 3601. Definitions

''In this chapter, the definitions under section 3502 shall apply, and the term—

''(1) 'Administrator' means the Administrator of the Office of Electronic Government established under section 3602;

''(2) 'Council' means the Chief Information Officers Council established under section 3603;

''(3) 'electronic Government' means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

''(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

''(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

''(4) 'enterprise architecture'—

''(A) means—

''(i) a strategic information asset base, which defines the mission;

''(ii) the information necessary to perform the mission;

''(iii) the technologies necessary to perform the mission; and

''(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

''(B) includes—

''(i) a baseline architecture;

''(ii) a target architecture; and

''(iii) a sequencing plan;

''(5) 'Fund' means the E-Government Fund established under section 3604;

''(6) 'interoperability' means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

''(7) 'integrated service delivery' means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

''(8) 'tribal government' means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"§ 3602. Office of Electronic Government

''(a) There is established in the Office of Management and Budget an Office of Electronic Government.

''(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

''(c) The Administrator shall assist the Director in carrying out—

''(1) all functions under this chapter;

''(2) all of the functions assigned to the Director under title XXXII of the E-Government Act of 2002; and

''(3) other electronic government initiatives, consistent with other statutes.

''(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

''(1) chapter 35;

''(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104–106; 40 U.S.C. 1401 et seq.);

''(3) section 552a of title 5 (commonly referred to as the Privacy Act);

''(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

''(5) the Government Information Security Reform Act; and

''(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

''(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

''(1) capital planning and investment control for information technology;

''(2) the development of enterprise architectures;

''(3) information security;

''(4) privacy;

''(5) access to, dissemination of, and preservation of Government information;

''(6) accessibility of information technology for persons with disabilities; and

''(7) other areas of electronic Government.

''(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

''(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

''(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

''(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

''(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

''(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

''(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

''(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

''(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of

the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

''(C) Standards and guidelines for Federal Government computer system efficiency and security.

''(9) Sponsor ongoing dialogue that—

''(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

''(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

''(C) may include—

''(i) development of innovative models—

''(I) for electronic Government management and Government information technology contracts; and

''(II) that may be developed through focused discussions or using separately sponsored research;

''(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

''(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

''(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

''(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

''(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

''(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

''(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

''(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

''(B) ensuring compliance with those standards through the budget review process and other means.

''(14) Oversee the development of enterprise architectures within and across agencies.

''(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

''(16) Administer the Office of Electronic Government established under section 3602.

''(17) Assist the Director in preparing the E-Government report established under section 3605.

''(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

''§ 3603. Chief Information Officers Council

''(a) There is established in the executive branch a Chief Information Officers Council.

''(b) The members of the Council shall be as follows:

''(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

''(2) The Administrator of the Office of Electronic Government.

''(3) The Administrator of the Office of Information and Regulatory Affairs.

''(4) The chief information officer of each agency described under section 901(b) of title 31.

''(5) The chief information officer of the Central Intelligence Agency.

''(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

''(7) Any other officer or employee of the United States designated by the chairperson.

''(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

''(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

''(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

''(3) The Administrator of General Services shall provide administrative and other support for the Council.

''(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

''(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

''(f) The Council shall perform functions that include the following:

''(1) Develop recommendations for the Director on Government information resources management policies and requirements.

''(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

''(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

''(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title XXXII of the E-Government Act of 2002.

''(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

''(C) Standards and guidelines for Federal Government computer system efficiency and security.

''(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

''(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

''§ 3604. E-Government Fund

''(a)(1) There is established in the Treasury of the United States the E-Government Fund.

''(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

''(3) Projects under this subsection may include efforts to—

''(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

''(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

''(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

''(b)(1) The Administrator shall—

''(A) establish procedures for accepting and reviewing proposals for funding;

''(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

''(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

''(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

''(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agency-wide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

''(B) Projects shall adhere to fundamental capital planning and investment control processes.

''(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would

be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

''(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

''(E) Agencies shall assess the results of funded projects.

''(c) In determining which proposals to recommend for funding, the Administrator—

''(1) shall consider criteria that include whether a proposal—

''(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

''(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

''(C) ensures proper security and protects privacy;

''(D) is interagency in scope, including projects implemented by a primary or single agency that—

''(i) could confer benefits on multiple agencies; and

''(ii) have the support of other agencies; and

''(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

''(2) may also rank proposals based on criteria that include whether a proposal—

''(A) has Governmentwide application or implications;

''(B) has demonstrated support by the public to be served;

''(C) integrates Federal with State, local, or tribal approaches to service delivery;

''(D) identifies resource commitments from nongovernmental sectors;

''(E) identifies resource commitments from the agencies involved;

''(F) uses web-based technologies to achieve objectives;

''(G) identifies records management and records access strategies;

''(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

''(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

''(J) supports integrated service delivery;

''(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

''(L) is new or innovative and does not supplant existing funding streams within agencies.

''(d) The Fund may be used to fund the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

''(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

''(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

''(2) The report under paragraph (1) shall describe—

''(A) all projects which the Director has approved for funding from the Fund; and

''(B) the results that have been achieved to date for these funded projects.

''(g)(1) There are authorized to be appropriated to the Fund—

''(A) $45,000,000 for fiscal year 2003;

''(B) $50,000,000 for fiscal year 2004;

''(C) $100,000,000 for fiscal year 2005;

''(D) $150,000,000 for fiscal year 2006; and

''(E) such sums as are necessary for fiscal year 2007.

''(2) Funds appropriated under this subsection shall remain available until expended.

''§ 3605. E-Government report

''(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(b) The report under subsection (a) shall contain—

''(1) a summary of the information reported by agencies under section 3202(f) of the E-Government Act of 2002;

''(2) the information required to be reported by section 3604(f); and

''(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

''36. Management and Promotion of Electronic Government Services .. 3601''.

SEC. 3102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

''SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

''The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

''Sec. 113. Electronic Government and information technologies.''.

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) Chair the Chief Information Officers Council established under section 3603 of title 44.''.

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

''§ 507. Office of Electronic Government

''The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

''507. Office of Electronic Government.''.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 3201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 3202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this division (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this division by the Director, and the information technology standards promulgated under this division by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 3204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this division shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) SPONSORED ACTIVITIES.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this division by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-GOVERNMENT STATUS REPORT.—

(1) IN GENERAL.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) SUBMISSION.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) USE OF TECHNOLOGY.—Nothing in this division supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) NATIONAL SECURITY SYSTEMS.—

(1) INAPPLICABILITY.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

(2) APPLICABILITY.—Sections 3202, 3203, 3210, and 3214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 3203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, $8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3204. FEDERAL INTERNET PORTAL.

(a) IN GENERAL.—

(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 3205. FEDERAL COURTS.

(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

(1) IN GENERAL.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) PRIVACY AND SECURITY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking ''shall hereafter'' and inserting ''may, only to the extent necessary,''.

(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) DEFERRAL.—

(1) IN GENERAL.—

(A) ELECTION.—

(i) NOTIFICATION.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) REPORT.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 3206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly

referred to as the Administrative Procedures Act).

(b) INFORMATION PROVIDED BY AGENCIES ON-LINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 3207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) ''Committee'' means the Interagency Committee on Government Information established under subsection (c); and

(2) ''directory'' means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(iii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 3202(g).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing

with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 3204.

(2) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) STANDARDS FOR AGENCY WEBSITES.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results;

(C) tools to aggregate and disaggregate data; and

(D) security protocols to protect information.

SEC. 3208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 3209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel

needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this section, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term ''geographic information'' means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 3211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

(1) in subsection (a)—

(A) by striking ''the heads of two executive agencies to carry out'' and inserting ''heads of executive agencies to carry out a total of 5 projects under'';

(B) by striking ''and'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(D) by adding at the end the following:

''(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

''(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

''(i) the total amount of the savings; over

''(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

''(B) to use the retained amount to acquire additional information technology.'';

(2) in subsection (b)—

(A) by inserting ''a project under'' after ''authorized to carry out''; and

(B) by striking ''carry out one project and''; and

(3) in subsection (c), by inserting before the period ''and the Administrator for the Office of Electronic Government''; and

(4) by inserting after subsection (c) the following:

''(d) REPORT.—

''(1) IN GENERAL.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(2) CONTENTS.—The report under paragraph (1) shall include—

''(A) a description of the reduced costs and other measurable benefits of the pilot projects;

''(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

''(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.''.

SEC. 3212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) DEFINITIONS.—In this section, the term—

(1) ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) ''person'' means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) CONTENTS.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) IN GENERAL.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) GOALS OF PILOT PROJECTS.—

(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) GOALS.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) PRIVACY PROTECTIONS.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.

(a) PURPOSES.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Services, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 3214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 3215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2003 to carry out this section.

SEC. 3216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this division (including any amendment made by this division) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

SEC. 3301. INFORMATION SECURITY.

(a) ADDITION OF SHORT TITLE.—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

''This subtitle may be cited as the 'Government Information Security Reform Act'.''.

(b) CONTINUATION OF AUTHORITY.—

(1) IN GENERAL.—Section 3536 of title 44, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title XXXI or XXXII, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles XXXI and XXXII for each of fiscal years 2003 through 2007.

SEC. 3402. EFFECTIVE DATES.

(a) TITLES XXXI AND XXXII.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles XXXI and XXXII and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 3207, 3214, 3215, and 3216 shall take effect on the date of enactment of this Act.

(b) TITLES XXXIII AND XXXIV.—Title XXXIII and this title shall take effect on the date of enactment of this Act.

SA 4624. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 5 and 6, insert the following new section:

"SEC. 140. UNITED STATES COAST GUARD.

(a) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the United States Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(b) PRESERVING COAST GUARD MISSION PERFORMANCE.—

(1) DEFINITIONS.—In this section:

(A) NON-HOMELAND SECURITY MISSIONS.—The term ''non-homeland security missions'' means the following missions of the Coast Guard:

(i) Marine safety.

(ii) Search and rescue.

(iii) Aids to navigation.

(iv) Living marine resources (e.g. 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) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, assets (including ships, aircraft, helicopters, vehicles, the National Distress Response System, and other command/control/communications/computers/intelligence/surveillance/reconnaissance capabilities), 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 specified in subsequent Acts: *Provided,* That, nothing in this paragraph shall prevent the Coast Guard from replacing or upgrading any asset with an asset of equivalent or greater capabilities.

(3) CERTAIN TRANSFERS PROHIBITED.—

(A) None of the missions, functions, personnel, and assets (including ships, aircraft, helicopters, vehicles, the National Distress Response System, and other command/control/communications/computers/intelligence/surveillance/reconnaissance capabilities) 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.

(B) The restrictions in the previous paragraph shall not apply—

(1) to any joint operation of less than 90 days between the Coast Guard and other entities and organizations of the Department; or

(ii) to any detail or assignment of any individual member or civilian employee of the Coast Guard to any other entity or organization of the Department for the purposes of ensuring effective liaison, coordination, and operations of the Coast Guard and that entity or organization: Provided, That the total number of individuals detailed or assigned in this capacity may not exceed 50 during any fiscal year.

(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 of the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in subsequent Act: Provided, That, with respect to a change to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, the restrictions in this paragraph shall not apply when such change shall result in an increase in those capabilities.

(B) WAIVER.—The President may waive the restrictions under paragraph (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 state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the National and the Coast Guard cannot respond effectively to the national emergency if the restrictions under paragraph (A) are not waived.

(5) ANNUAL REVIEW.—

(A) IN GENERAL.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly 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 Inspector General shall submit the detailed results of the annual review and assessment required by the preceding not later than March 1 of each year directly to:

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Government Reform 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) DIRECTOR 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) COORDINATION WITH DEPARTMENT OF TRANSPORTATION.—The Coast Guard shall continue to coordinate with the Department of Transportation concerning regulatory matters that will remain under the authority of the Department of Transportation, but for which the Coast Guard has enforcement or other authority.

(8) CONSULTATION WITH COMMISSION ON OCEAN POLICY.—The Secretary shall consult with the Commission on Ocean Policy not later than February 1, 2003 regarding plans for integration and maintenance of living marine resources, marine environmental protection, and aids to navigation missions within the Department, and with respect to coordination with other federal agencies having authority in such areas.

(9) RESOURCE EVALUATION.—

(A) IN GENERAL.—No later than 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Committees on Appropriations of the senate and House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, that—

(i) compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001;

(ii) estimates—

(A) annual funding amounts and personnel levels that would restore all Coast Guard

mission areas to the readiness levels that existed before September 11, 2001;

(B) annual funding amounts and personnel levels required to fulfill the Coast Guard's additional responsibilities for homeland security missions after September 11, 2001; and

(iii) generally describes the services provided by the Coast Guard to the Department of Defense after September 11, 2001, states the cost of such services and identifies the Federal agency or agencies providing funds of those services.

(B) ANNUAL REPORT.—Within 30 days after the end of each fiscal year, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House a report identifying resource allocations on an hourly and monetary basis for each nonhomeland security and homeland security Coast Guard mission for the fiscal year just ended.

(10) STRATEGIC PLAN.—(A) Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a strategic plan to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House identifying mission targets for each Coast Guard mission for fiscal years 2003, 2004 and 2005 and the specific steps necessary to achieve those targets. Such plan shall also provide an analysis and recommendations for maximizing the efficient use of Federal resources and technologies to achieve all mission requirements.

(B) The Commandant shall consult with the Secretary of Commerce and other relevant agencies to ensure the plan provides for, e.g. coordinated development and application of communications and other technologies for use in meeting non-homeland security mission targets, such as conservation and management of living marine resources, and for setting priorities for fisheries enforcement.

(C) The Inspector General shall review the final plan, and provide an independent report with its views to the Committees within 90 days after the plan has been submitted by the Commandant.

(11) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

(12) REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.—No later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SA 4625. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, strike lines 13 through 15.

SA 4626. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, strike lines 1 on page 52.

SA 4627. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 113, line 1, insert after the comma the Commandant of the Coast Guard,''.

SA 4628. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 132, add the following:

(h) FEDERAL-LOCAL LAW ENFORCEMENT INFORMATION SHARING.—

(1) AUTHORITY TO SHARE GRAND JURY INFORMATION.—Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure is amended—

(A) in clause (i)(V), by inserting after ''national security official'' the following: ''or to law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''; and

(B) in clause (iii)—

(i) by striking ''Federal''; and

(ii) by adding at the end the following: ''Information referred to in this clause that is shared with local authorities shall be shared only for the purpose of investigating or preventing international or domestic terrorism (as those terms are defined in section 2331 of title 18, United States Code) or a Federal crime of terrorism (as that term is defined in section 2332b of title 18, United States Code). Any chief executive officer or law enforcement personnel of a State or political subdivision of a State who receives information pursuant to clause (i)(V), shall only use that information consistent with such regulations as the Attorney General shall promulgate to protect confidentiality.''.

(2) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.—Section 2517 of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting ''or such derivative evidence'' after ''such contents'';

(B) in paragraph (2), by inserting ''or such derivative evidence'' after ''such contents''; and

(C) in paragraph (6)—

(i) in the first sentence, by inserting after ''national security official'' the following: ''or to law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)'';

(ii) in the second sentence, by striking ''Federal''; and

(iii) by adding at the end the following: ''Information referred to in this paragraph that is shared with local authorities shall be shared only for the purpose of investigating or preventing international or domestic terrorism (as those terms are defined in section 2331) or a Federal crime of terrorism (as that term is defined in section 2332b). Any chief executive officer or law enforcement personnel of a State or political subdivision of a State who receives information pursuant to this paragraph shall only use that information consistent with such regulations as the Attorney General shall promulgate to protect confidentiality.''.

(3) FOREIGN INTELLIGENCE INFORMATION.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001 (Public Law 107–56) is amended—

(A) in the first sentence, by inserting after ''national security official'' the following: ''or to law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)'';

(B) in the second sentence, by striking ''Federal''; and

(C) by adding at the end the following: ''Information referred to in this paragraph that is shared with local authorities shall be shared only for the purpose of investigating or preventing international or domestic terrorism (as those terms are defined in section 2331 of title 18, United States Code) or a Federal crime of terrorism (as that term is defined in section 2332b of title 18, United States Code). Any chief executive officer or law enforcement personnel of a State or political subdivision of a State who receives information pursuant to this paragraph shall only use that information consistent with such regulations as the Attorney General shall promulgate to protect confidentiality.''.

(4) INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.—Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

(5) INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.—Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

SA 4629. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland

Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, before line 1, insert the following:

(STATE) The term ''state'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

SA 4630. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 164, between lines 19 and 20, insert the following:

(f) Report on Office consolidation: Not later than one year after the date of enactment of this Act, the Secretary shall issue a report to Congress on the feasibility of consolidating and co-locating (1) any regional offices or field offices of agencies that are transferred to the Department under this Act, if such offices are located in the same municipality: and (2) portions of regional and field offices of other Federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.

SA 4631. Mr. LIEBERMAN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, insert between lines 9 and 10 the following:

TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 601. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the ''Commission'').

SEC. 602. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 603. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 604. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 605. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 606. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 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 COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 607. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 608. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 609. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADDITIONAL REPORTS.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

SA 4632. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 67, between lines 13 and 14, insert the following:

(10) Net Guard: The Under Secretary for Critical Infrastructure Protection may establish a national technology guard, to be known as ''Net Guard'' comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

On page 67, line 14, delete (10) and insert (11).

SA 4633. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, between lines 14 and 15, insert the following:

Sec. 199. Requirement to Comply with Laws Protecting Equal Employment Opportunity and Providing Whistleblower Protections.

Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee, Antidiscrimination and Retaliation Act of 2002 (Pub. L. 107–174): or (2) to provide whistleblower protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) of such title and Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002.

SA 4634. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On Page 14, after line 25, insert the following:

(F) Ensuring that Federal, State, and local entities share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SA 4635. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SENSE OF THE CONGRESS.—It is the Sense of the Congress that the Department of Homeland Security shall comply with all laws protecting the civil rights and civil liberties of U.S. persons.

SA 4636. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

It is the Sense of the Congress that the Department of Homeland Security shall comply with all laws protecting the privacy of U.S. persons.

SA 4637. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new title:

TITLE ____—HOMELAND SECURITY INFORMATION SHARING ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Homeland Security Information Sharing Act''.

SEC. ___02. FINDINGS AND SENSE OF CONGRESS.

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

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. ___03. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PRESIDENTIAL PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—(1) The President shall prescribe procedures under which relevant Federal agencies determine—

(A) whether, how, and to what extent homeland security information may be shared with appropriate State and local personnel, and with which such personnel it may be shared;

(B) how to identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this title with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—In this section:

(1) The term ''homeland security information'' means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''State and local personnel'' means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term ''State'' includes the District of Columbia and any commonwealth, territory, or possession of the United States.

SEC. ___04. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of

this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section ___03. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section ___03, to increase the effectiveness of sharing of information among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. ___05. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section ___03.

SA 4638. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, between lines 9 and 10, insert the following:

SEC. 512. AIRPORT SECURITY SCREENER STANDARDS AND TRAINING.

(a) IN GENERAL.—Section 44935(e)(2) of title 49, United States Code, is amended—

(1) by striking ''States;'' in subparagraph (A)(ii) and inserting ''States or described in subparagraph (C);'';

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

''(C) OTHER INDIVIDUALS.—An individual is described in this subparagraph if that individual—

''(i) is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)));

''(ii) was born in a territory of the United States;

''(iii) was honorably discharged from service in the Armed Forces of the United States; or

''(iv) is an alien lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act and was employed to perform security screening services at an airport in the United States on the date of enactment of the Aviation and Transportation Security Act (Public Law 107–71).''.

(b) CORRECTION OF SUBSECTION DESIGNATION.—Subsection (i) of section 44935 of title 49, United States Code, relating to accessibility of computer-based training facilities, is redesignated as subsection (k).

SA 4639. Mrs. FEINSTEIN (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 13 and 14, insert the following:

SEC. 173. SEAPORT AND CONTAINER SECURITY.

(a) PERSONAL RADIATION DETECTION PAGERS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall require that Customs Service officers and other appropriate law enforcement officers at United States seaports be provided with and use personal radiation detection pagers to increase the ability of such officers to accurately detect radioactive materials that could be used to commit terrorist acts in the United States.

(b) RESEARCH AND DEVELOPMENT GRANTS FOR PORT SECURITY.—

(1) AUTHORITY.—The Secretary is authorized to award grants to eligible entities for research and development of technologies that can be used to secure the ports of the United States.

(2) USE OF FUNDS.—Grants awarded pursuant to paragraph (1) shall be used to develop technologies to improve seals and sensors for cargo containers so that it is possible to—

(A) immediately detect tampering with the seal or sensor;

(B) immediately detect tampering with the walls, ceiling, or floor of the container that indicates a person is attempting to improperly access the container; and

(C) transmit information regarding tampering with the seal, walls, ceiling, or floor of the container in real time to the appropriate authorities at a remote location.

(3) APPLICATION FOR GRANTS.—Each entity desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(4) DEFINITIONS.—In this subsection:

(A) CONTAINER.—The term ''container'' means a container that is used or designed for use for the international transportation of merchandise by vessel, vehicle, or aircraft.

(B) ELIGIBLE ENTITY.—The term ''eligible entity'' means any national laboratory, nonprofit private organization, institution of higher education, or other entity that the Secretary determines is eligible to receive a grant authorized by paragraph (1).

(C) VESSEL.—The term ''vessel'' has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2003 through 2007 to carry out the provisions of this subsection.

SA 4640. Mrs. FEINSTEIN (for herself, Mr. BOND, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In division A, redesignate title VI as title VII, and section 601 as section 701, and insert after title V the following new title VI:

TITLE VI—NATIONAL GUARD

SEC. 601. SHORT TITLE.

This title may be cited as the ''Guaranteeing a United and Resolute Defense Act of 2002'' or the ''GUARD Act of 2002''.

SEC. 602. FUNDING ASSISTANCE FOR HOMELAND SECURITY ACTIVITIES OF THE NATIONAL GUARD.

(a) IN GENERAL.—Chapter 1 of title 32, United States Code, is amended by inserting after section 112 the following new section:

''§ 112a. Homeland security activities

''(a) FUNDING ASSISTANCE.—(1) The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary a homeland security activities plan satisfying the requirements of subsection (b).

''(2) To be eligible for assistance under this subsection, a State shall have a homeland security activities plan in effect.

''(3) Any funds provided to a State under this subsection shall be used for the following:

''(A) Pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of the State for service performed for the purpose of homeland security while not in Federal service.

''(B) Operation and maintenance of the equipment and facilities of the National Guard of the State that are used for the purpose of homeland security.

''(C) Procurement of services and the purchase or leasing of equipment for the National Guard of the State for use for the purpose of homeland security.

''(b) HOMELAND SECURITY ACTIVITIES PLAN REQUIREMENTS.—The homeland security activities plan of a State—

''(1) shall specify how personnel and equipment of the National Guard of the State are to be used in homeland security activities and include a detailed explanation of the reasons why the National Guard should be used for the specified activities;

''(2) shall describe in detail how any available National Guard training facilities, including any distance learning programs and projects, are to be used;

''(3) shall include the Governor's certification that the activities under the plan are to be conducted at a time when the personnel involved are not in Federal service;

''(4) shall include the Governor's certification that participation by National Guard personnel in the activities under the plan is service in addition to training required under section 502 of this title;

''(5) shall include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general) that the use of the National Guard of the State for the activities proposed under the plan is authorized by, and is consistent with, State law;

''(6) shall include the Governor's certification that the Governor or a civilian law enforcement official of the State designated by the Governor has determined that any activities to be carried out in conjunction with Federal law enforcement agencies under the plan serve a State law enforcement purpose; and

''(7) may provide for the use of personnel and equipment of the National Guard of that State to assist the Directorate of Immigration Affairs of the Department of Homeland Security in the transportation of aliens who have violated a Federal or State law prohibiting terrorist acts.

''(c) EXAMINATION AND APPROVAL OF PLAN.—The Secretary of Defense shall examine the adequacy of each homeland security activities plan of a State and, if the plan is determined adequate, approve the plan.

''(d) ANNUAL REPORT.—(1) The Secretary of Defense shall submit to Congress each year a report on the assistance provided under this section during the preceding fiscal year, including the activities carried out with such assistance.

''(2) The annual report under this subsection shall include the following:

''(A) A description of the homeland security activities conducted under the homeland security activities plans with funds provided under this section.

''(B) An accounting of the funds provided to each State under this section.

''(C) An analysis of the effects on military training and readiness of using units and personnel of the National Guard to perform

activities under the homeland security activities plans.

''(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

''(f) DEFINITIONS.—In this section:

''(1) The term 'Governor', in the case of the District of Columbia, means the commanding general of the National Guard of the District of Columbia.

''(2) The term 'homeland security activities', with respect to the National Guard of a State, means the use of National Guard personnel, when authorized by the law of the State and requested by the Governor of the State, to prevent, deter, defend against, and respond to an attack or threat of attack on the people and territory of the United States.

''(3) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by inserting after the item relating to section 112 the following new item:

''112a. Homeland security activities.''.

SA 4641. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill (H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 265, strike line 6 and all that follows through line 9 on page 305 and insert the following:

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Unaccompanied Alien Child Protection Act of 2002''.

SEC. 1202. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office.

(2) OFFICE.—The term ''Office'' means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act.

(3) SERVICE.—The term ''Service'' means the Immigration and Naturalization Service (or, upon the effective date of title XI, the Directorate of Immigration Affairs).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security (or, prior to the effective date of title XI, the Attorney General).

(5) UNACCOMPANIED ALIEN CHILD.—The term ''unaccompanied alien child'' means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(6) VOLUNTARY AGENCY.—The term ''voluntary agency'' means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children as licensed by the appropriate State and certified by the Director of the Office of Refugee Resettlement.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

''(53) The term 'unaccompanied alien child' means a child who—

''(A) has no lawful immigration status in the United States;

''(B) has not attained the age of 18; and

''(C) with respect to whom—

''(i) there is no parent or legal guardian in the United States; or

''(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

''(54) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

''(A) have not attained the age of 18; and

''(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.''.

Subtitle A—Structural Changes

SEC. 1211. RESPONSIBILITIES OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—

(1) RESPONSIBILITIES OF THE OFFICE.—The Office shall be responsible for—

(A) coordinating and implementing the care and placement for unaccompanied alien children who are in Federal custody by reason of their immigration status; and

(B) ensuring minimum standards of detention for all unaccompanied alien children.

(2) DUTIES OF THE DIRECTOR WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible under this title for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Secretary, Administration for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(i) biographical information such as the child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention; and

(v) the disposition of any actions in which the child is the subject;

(I) collecting and compiling statistical information from the Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(J) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the refugee children foster care system established under section 412(d)(2) of the Immigration and Nationality Act for the placement of unaccompanied alien children.

(4) POWERS.—In carrying out the duties under paragraph (3), the Director shall have the power to—

(A) contract with service providers to perform the services described in sections 1222, 1223, 1231, and 1232; and

(B) compel compliance with the terms and conditions set forth in section 1223, including the power to terminate the contracts of providers that are not in compliance with such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(5) AUTHORITY TO HIRE PERSONNEL.—The Director is authorized to hire and fix the level of compensation of an adequate number of personnel to carry out the duties of the Office. In hiring such personnel, the Director may seek the transfer of personnel employed by the Department of Justice in connection with the functions transferred by section 1213.

(b) NO EFFECT ON SERVICE, EOIR, AND DEPARTMENT OF STATE ADJUDICATORY RESPONSIBILITIES.—Nothing in this title may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act from the authority of any official of the Service, the Executive Office of Immigration Review (or successor entity), or the Department of State.

SEC. 1212. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) COMPOSITION.—The Task Force shall consist of the following members:

(1) The Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(2) The Commissioner of Immigration and Naturalization (or, upon the effective date of title XI, the Under Secretary of Homeland Security for Immigration Affairs).

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(5) Such other officials in the executive branch of Government as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(d) ACTIVITIES OF THE TASK FORCE.—In consultation with nongovernmental organizations, the Task Force shall—

(1) measure and evaluate the progress of the United States in treating unaccompanied alien children in United States custody; and

(2) expand interagency procedures to collect and organize data, including significant research and resource information on the needs and treatment of unaccompanied alien children in the custody of the United States Government.

SEC. 1213. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested by

statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect on the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—

(1) ESTABLISHMENT OF JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act, while such charges are pending; or

(ii) has been convicted of any such felony.

(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence that such child endangers the national security of the United States.

(D) TRAFFICKING VICTIMS.—For the purposes of this Act, an unaccompanied alien child who is receiving services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386), shall be considered to be in the custody of the Office.

(2) NOTIFICATION.—Upon apprehension of an unaccompanied alien child, the Secretary shall promptly notify the Office.

(3) TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.—

(A) TRANSFER TO THE OFFICE.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), immediately following a determination that the child no longer meets the description set forth in such paragraph.

(B) TRANSFER TO THE SERVICE.—Upon determining that a child in the custody of the Office is described in paragraph (1) (B) or (C), the Director shall promptly make arrangements to transfer the care and custody of such child to the Service.

(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about such alien's age would affect the alien's eligibility for treatment under the provisions of this title, a determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1222. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) PLACEMENT AUTHORITY.—

(1) ORDER OF PREFERENCE.—Subject to the Director's discretion under paragraph (4) and section 1223(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with one of the following individuals in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child's well-being.

(E) A State-licensed juvenile shelter, group home, or foster home willing to accept legal custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) HOME STUDY.—Notwithstanding the provisions of paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid home-study conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such a study, or by an appropriate voluntary agency contracted with the Office to conduct such studies has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Programme of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—

(A) POLICIES.—The Director shall establish policies to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of being involved in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of being involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member or other appropriate disciplinary authorities for appropriate disciplinary action that may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to the availability of appropriations, the Director is authorized to reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person listed in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—In the case of a placement of a child with an entity described in section 1222(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—The Office shall conduct assessments of country conditions to determine the extent to which the country to which a child is being repatriated has a child welfare system capable of ensuring the child's well being.

(B) FACTORS FOR ASSESSMENT.—In assessing country conditions, the Office shall, to the maximum extent practicable, examine the conditions specific to the locale of the child's repatriation.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(5) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(6) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

The Director shall develop procedures that permit the presentation and consideration of a variety of forms of evidence, including testimony of a child and other persons, to determine an unaccompanied alien child's age for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge. Radiographs shall not be the sole means of determining age.

SEC. 1226. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

(a) GUARDIAN AD LITEM.—

(1) APPOINTMENT.—The Director shall appoint a guardian ad litem who meets the qualifications described in paragraph (2) for each unaccompanied alien child in the custody of the Office not later than 72 hours after the Office assumes physical or constructive custody of such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Service.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence

and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) ensure that the child's best interests are promoted while the child participates in, or is subject to, proceedings or actions under the Immigration and Nationality Act;

(F) ensure that the child understands such determinations and proceedings; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed,

(B) the child departs the United States,

(C) the child is granted permanent resident status in the United States,

(D) the child attains the age of 18, or

(E) the child is placed in the custody of a parent or legal guardian,

whichever occurs first.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings involving the child that are held in connection with proceedings under the Immigration and Nationality Act, and shall be given a reasonable opportunity to be present at such hearings; and

(E) shall be permitted to consult with the child during any hearing or interview involving such child.

(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children face as well as in the various immigration benefits for which such a child might be eligible.

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office or in the custody of the Service who are not described in section 1221(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(3) GOVERNMENT FUNDED REPRESENTATION.—

(A) APPOINTMENT OF COMPETENT COUNSEL.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, when no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

(B) LIMITATION ON ATTORNEY FEES.—Counsel appointed under subparagraph (A) may not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

(C) ASSUMPTION OF THE COST OF GOVERNMENT-PAID COUNSEL.—In the case of a child for whom counsel is appointed under subparagraph (A) who is subsequently placed in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child, at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(4) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(5) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractee for more than one of the following services:

(i) Services provided under section 1222.

(ii) Services provided under section 1231.

(iii) Services provided under paragraph (2).

(iv) Services provided under paragraph (3).

(b) REQUIREMENT OF LEGAL REPRESENTATION.—The Director shall ensure that all unaccompanied alien children have legal representation within 7 days of the child coming into Federal custody.

(c) DUTIES.—Counsel shall represent the unaccompanied alien child all proceedings and actions relating to the child's immigration status or other actions involving the Service and appear in person for all individual merits hearings before the Executive Office for Immigration Review (or its successor entity) and interviews involving the Service.

(d) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) TERMINATION OF APPOINTMENT.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed,

(2) the child departs the United States,

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act,

(4) the child is granted protection under the Convention Against Torture,

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act,

(6) the child is granted permanent resident status in the United States, or

(7) the child attains 18 years of age,

whichever occurs first.

(f) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect 180 days after the effective date of division A of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

''(J) an immigrant under the age of 18 on the date of application who is present in the United States—

''(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

''(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

''(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs (or, prior to the effective date of title XI of the National Homeland Security and Combatting Terrorism Act of 2002, the Attorney General) that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;''.

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply,'';

(2) in subparagraph (B), by striking the period and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(C) the Secretary of Homeland Security (or, prior to the effective date of title XI of the National Homeland Security and Combatting Terrorism Act of 2002, the Attorney General) may waive paragraph (2) (A) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied.''.

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section

101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), shall be eligible for all funds made available under section 412(d) of such Act until such time as the child attains the age designated in section 412(d)(2)(B) of such Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF SERVICE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Service for its issuance of its ''Guidelines for Children's Asylum Claims'', dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the ''Guidelines for Children's Asylum Claims'' in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary shall provide periodic comprehensive training under the ''Guidelines for Children's Asylum Claims'' to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

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

''(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

''(A) the number of unaccompanied refugee children, by region;

''(B) the capacity of the Department of State to identify such refugees;

''(C) the capacity of the international community to care for and protect such refugees;

''(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

''(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

''(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.''.

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking ''and'' after ''countries,''; and

(2) inserting before the period at the end the following: '', and instruction on the needs of unaccompanied refugee children''.

(c) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(1) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review (or its successor entity), in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(2) PURPOSE OF GUIDELINES.—Such guidelines shall be designed to help protect a child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(3) IMPLEMENTATION.—The Executive Office for Immigration Review (or its successor entity) shall adopt such guidelines and submit them for adoption by national, State, and local bar associations.

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SA 4642. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BLAST-RESISTANT CARGO CONTAINER TECHNOLOGY.

Not later than 6 months after the date of enactment of this Act, the Administrator of the Transportation Security Administration shall submit a report to Congress that—

(1) evaluates blast-resistant cargo container technology to protect against explosives in passenger luggage and cargo;

(2) examines the advantages associated with this technology in preventing the damage and loss of aircraft from terrorist action, any operational impacts which may result (particularly added weight and costs) and whether alternatives exist to mitigate such impacts, and options available to pay for this technology;

(3) assesses if and how soon this technology can be employed and whether a phase-in period is necessary; and

(4) if a phase-in period is determined to be necessary, recommends a phase-in schedule that is feasible.

SA 4643. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, strike line 20 and insert the following:

locomotives;

(4) $20,000,000 for grants to finance the cost of facility security hardening and relocation; and

(5) $2,000,000 for technological improvements for enhanced border crossings.

SA 4644. Mr. BYRD proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

On page 7, line 4, strike all through page 173, line 14, and insert the following:

SEC. 100. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) AGENCY.—Except for purposes of subtitle 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

(B) does not include the General Accounting Office.

(2) ASSETS.—The term ''assets'' includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security established under title I.

(4) ENTERPRISE ARCHITECTURE.—The term ''enterprise architecture''—

(A) means—

(i) a strategic information asset base, which defines the mission;

(ii) the information necessary to perform the mission;

(iii) the technologies necessary to perform the mission; and

(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan.

(5) FUNCTIONS.—The term ''functions'' includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(6) HOMELAND.—The term ''homeland'' means the United States, in a geographic sense.

(7) HOMELAND SECURITY.—The term ''homeland security'' means a concerted national effort to—

(A) prevent terrorist attacks within the United States;

(B) reduce America's vulnerability to terrorism; and

(C) minimize the damage and recover from terrorist attacks that do occur.

(8) 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).

(9) 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.

(10) PERSONNEL.—The term ''personnel'' means officers and employees.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(12) UNITED STATES.—The term ''United States'', when used in a geographic sense, means any State (within the meaning of section 102(4) 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 National Homeland Security.

(b) EXECUTIVE DEPARTMENT.—Section 101 of title 5, United States Code, is amended by adding at the end the following:

''The Department of Homeland Security.''.

(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;

(C) reduce 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. This 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. All authorities, functions, and responsibilities transferred to the Department shall be vested in the Secretary.

(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 a comprehensive strategy for combating terrorism and the homeland security response.

(4) To make budget recommendations relating to the border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion 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 supporting 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 promote key scientific and technological advances that will enhance homeland security.

(9) To include, as appropriate, State and local governments and other 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, to ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities; and

(D) systematically identifying and removing obstacles to developing effective partnerships between the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities, the private sector, other entities, and the public to secure the homeland.

(10)(A) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to homeland security.

(B) To consult and coordinate with the Secretary of Defense regarding the training of personnel to respond to terrorist attacks involving chemical or biological agents.

(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 public threat advisories, and (in coordination with other agencies) providing specific 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 support 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) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) To report to Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 182; and

(B) each biennial report required under section 192(b).

(c) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

''(5) the Secretary of Homeland Security; and

''(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.''.

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 report to the Secretary, who may assign to the Under Secretary such functions related to the management and administration of the Department as the Secretary may prescribe, including—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 105. ASSISTANT SECRETARIES.

(a) IN GENERAL.—There shall be in the Department not more than 5 Assistant Secretaries (not including the 2 Assistant Secretaries appointed under division B), each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall describe the general responsibilities that such appointee will exercise upon taking office.

(2) ASSIGNMENT.—Subject to paragraph (1), the Secretary shall assign to each Assistant Secretary such functions as the Secretary considers appropriate.

SEC. 106. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting ''Homeland Security,'' after ''Health and Human Services,''; and

(2) in paragraph (2), by inserting ''Homeland Security,'' after ''Health and Human Services,''.

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

''SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the ''Inspector General'') shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the ''Secretary'') with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

''(A) intelligence or counterintelligence matters;

''(B) ongoing criminal investigations or proceedings;

''(C) undercover operations;

''(D) the identity of confidential sources, including protected witnesses;

''(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

''(i) section 3056 of title 18, United States Code;

''(ii) section 202 of title 3, United States Code; or

''(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

''(F) other matters the disclosure of which would constitute a serious threat to national security.

''(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

''(A) prevent the disclosure of any information described under paragraph (1);

''(B) preserve the national security; or

''(C) prevent significant impairment to the national interests of the United States.

''(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

''(A) the President of the Senate;

''(B) the Speaker of the House of Representatives;

''(C) the Committee on Governmental Affairs of the Senate;

''(D) the Committee on Government Reform of the House of Representatives; and

''(E) other appropriate committees or subcommittees of Congress.

''(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

''(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

''(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

''(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

''(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

''(1) the President of the Senate;

''(2) the Speaker of the House of Representatives;

''(3) the Committee on Governmental Affairs of the Senate; and

''(4) the Committee on Government Reform of the House of Representatives.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking ''8F'' each place it appears and inserting ''8G''; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking ''or 8H'' and inserting '', 8H, or 8I''.''

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(b) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

''(G) The Department of Homeland Security.''.

SEC. 108. CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Information Officer, who shall be designated in the manner prescribed under section 3506(a)(2)(A) of title 44, United States Code.

(b) RESPONSIBILITIES.—The Chief Information Officer shall assist the Secretary with Department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

SEC. 109. GENERAL COUNSEL.

(a) IN GENERAL.—There shall be in the Department 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) serve as the chief legal officer of the Department;

(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) ensuring 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 officers of the Department in ensuring that the workforce of the Department has the necessary skills and training, and that the recruitment and retention policies of the Department allow the Department to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the Department to achieve its missions;

(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; and

(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 within the Office of the Secretary, 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 exchange shall include—

(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 demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

SEC. 114. EXECUTIVE SCHEDULE POSITIONS.

(a) EXECUTIVE SCHEDULE LEVEL I POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

''Secretary of Homeland Security.''.

(b) EXECUTIVE SCHEDULE LEVEL II POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Secretary of Homeland Security.''.

(c) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary for Management, Department of Homeland Security.''.

(d) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Secretaries of Homeland Security (5).

''Inspector General, Department of Homeland Security.

''Chief Financial Officer, Department of Homeland Security.

''Chief Information Officer, Department of Homeland Security.

''General Counsel, Department of Homeland Security.''.

Subtitle B—Establishment of Directorates and Offices

SEC. 131. DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Border and Transportation Protection.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Border and Transportation, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) EXERCISE OF CUSTOMS REVENUE AUTHORITY.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—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 this 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 of proposed 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:

(A) The Tariff Act of 1930 (19 U.S.C. 1304 et seq.).

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(J) The Trade Agreements Act of 1979 (19 U.S.C. 2502 et seq.).

(K) The North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 et seq.).

(L) The Uruguay Round Agreements Act (19 U.S.C. 3501 et seq.).

(M) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

(N) The Andean Trade Preference Act (19 U.S.C. 3201 et seq.).

(O) The African Growth and Opportunity Act (19 U.S.C. 3701 et seq.).

(P) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) DEFINITION OF CUSTOMS REVENUE FUNCTIONS.—In this subsection, 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, and providing Customs Recordations for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

(d) 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) Marine 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) MAINTENANCE OF STATUS 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 specified in subsequent Acts.

(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 of 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 state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot 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 that shall assess thoroughly 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 Reform 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. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—There is established within the Department a Directorate 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 for the purpose of supporting the mission of the Department.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 133. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(b) 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.

SEC. 134. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.

(a) ESTABLISHMENT.—There is established within the Department a Directorate of Science and Technology.

(b) 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. The principal responsibility of the Under Secretary shall be to effectively and efficiently carry out the purposes of the Directorate of Science and Technology.

SEC. 136. DIRECTORATE OF IMMIGRATION AFFAIRS.

The Directorate of Immigration Affairs shall be established and shall carry out all functions 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 the Office 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 to assist the development of the national strategy for combating terrorism and other homeland security activities.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) CHIEF HOMELAND SECURITY LIAISON OFFICER.—

(A) APPOINTMENT.—The Secretary shall appoint a Chief Homeland Security Liaison Officer to coordinate the activities of the Homeland Security Liaison Officers, designated under paragraph (2).

(B) ANNUAL REPORT.—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 or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(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 Department priorities within each State and between the States.

(2) HOMELAND SECURITY LIAISON OFFICERS.—

(A) DESIGNATION.—The Secretary shall designate in each State not less than 1 employee of the Department to—

(i) serve as the Homeland Security Liaison Officer in that State; and

(ii) provide coordination 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 or 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;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) 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 a 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;

(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. 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 frequently 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 in 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. 139. LEGISLATIVE PROPOSALS AND SUPPORTING AND ENABLING LEGISLATION.

(a) DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.—Not earlier than February 3, 2003, the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Border and Transportation Protection; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Border and Transportation Protection, to provide for homeland security.

(b) DIRECTORATE OF INTELLIGENCE AND DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.—Not earlier than 120 days after the submission of the proposals and recommendations under subsection (a), the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Intelligence and the Directorate of Critical Infrastructure Protection; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Intelligence and the Directorate of Critical Infrastructure Protection, to provide for homeland security.

(c) DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE AND DIRECTORATE OF SCIENCE AND TECHNOLOGY.—Not earlier than 120 days after the submission of the proposals and recommendations under subsection (b), the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Emergency Preparedness and Response and the Directorate of Science and Technology; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Emergency Preparedness and Response and the Directorate of Science and Technology, to provide for homeland security.

(d) SAVINGS AND ADMINISTRATIVE PROVISIONS OF SUPPORTING AND ENABLING LEGISLATION.—Sections 183, 184, and 194 shall apply to any supporting and enabling legislation described under subsection (a), (b), or (c) enacted after the date of enactment of this Act.

(e) DEADLINE FOR CONGRESSIONAL ACTION.—Not later than 13 months after the date of enactment of this Act, the Congress shall complete action on all supporting and enabling legislation described under subsection (a), (b), or (c).

SEC. 140. EXECUTIVE SCHEDULE POSITIONS.

Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary for Border and Transportation, 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 task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to homeland security.

(c) DUTIES.—

(1) DISSEMINATION OF INFORMATION.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) CENTER.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a 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 heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) BEST PRACTICES INFORMATION.—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 private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness.

(b) 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 and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) FEDERAL SHARE.—The Federal share of the cost described in subsection (a) shall be 50 percent, up to a maximum of $250,000 per grant recipient.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) NATIONAL WEEK.—

(1) DESIGNATION.—Each week that includes September 11 is ''National Emergency Preparedness Week''.

(2) 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.

(b) FEDERAL AGENCY ACTIVITIES.—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

Subtitle D—Miscellaneous Provisions

SEC. 161. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

(a) ESTABLISHMENT.—There is established within the Department of Defense a National Bio-Weapons Defense Analysis Center (in this section referred to as the ''Center'').

(b) 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 1403 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—

(1) 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

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness 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) CONTENTS.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section 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 and recommendations of the Department to further protect the food supply from contamination.

SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN AGENCIES AND 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 cooperatively can learn from one another and resolve complex issues;

(3) Federal, State, and local employees have specialized knowledge that should be consistently shared between and among agencies at all levels of government; 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.

(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. 164. WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 620; 49 U.S.C. 44935 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 44935 of title 49, United States Code; or

''(ii) an applicant for the position of a security screener under that subsection.

''(B) IN GENERAL.—Notwithstanding paragraph (1)—

''(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

''(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

''(C) COVERED POSITION.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.''.

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'' and inserting the following:

''(a) DISCRIMINATION AGAINST EMPLOYEES.—

''(1) IN GENERAL.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:

''(2) APPLICABLE EMPLOYERS.—Paragraph (1) shall apply to—

''(A) an air carrier or contractor or subcontractor of an air carrier;

''(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

''(C) an employer of private screening personnel described in section 44919 or 44920 of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking ''paragraphs (1) through (4) of subsection (a)'' and inserting ''subparagraphs (A) through (D) of subsection (a)(1)''; and

(2) in clause (iii), by striking ''paragraphs (1) through (4) of subsection (a)'' and inserting ''subparagraphs (A) through (D) of subsection (a)(1)''.

SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472–4) 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 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.

''(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

''(3) RESPONSIBILITIES.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

''(A) The Bioterrorism Preparedness and Response Program.

''(B) The Strategic National Stockpile.

''(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

''(4) DIRECTOR.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

''(5) STAFFING.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

''(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

''(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.''.

SEC. 167. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Secretary under section 102(b)(14) 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) 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 under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), 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 returning 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.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

''(c) PERSONNEL GRANTS.—

''(1) EXCLUSION.—Grants awarded under subsection (b) to hire 'employees engaged in fire protection', as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203), shall not be subject to paragraphs (10) or (11) of subsection (b).

''(2) DURATION.—Grants awarded under paragraph (1) shall be for a 3-year period.

''(3) MAXIMUM AMOUNT.—The total amount of grants awarded under paragraph (1) shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

''(4) FEDERAL SHARE.—

''(A) IN GENERAL.—Notwithstanding subsection (b)(6), the Federal share of a grant under paragraph (1) shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

''(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

''(5) APPLICATION.—In addition to the information under subsection (b)(5), an application for a grant under paragraph (1), shall include—

''(A) an explanation for the need for Federal assistance; and

''(B) specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

''(6) MAINTENANCE OF EFFORT.—Grants awarded under paragraph (1) shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources.''; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

''(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).''.

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS.—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;

(2) review all available information on vulnerabilities at aviation, seaport, rail and transit facilities; and

(3) review the steps taken by agencies since September 11, 2001, to improve aviation, seaport, rail, and transit security to determine their effectiveness at protecting passengers and transportation infrastructure from terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress and the Secretary a comprehensive report containing—

(1) the findings and conclusions from the reviews conducted under subsection (a); and

(2) proposed steps to improve any deficiencies found in aviation, seaport, rail, and transit security including, to the extent possible, the cost of implementing the steps.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section 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) recommendations of 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—

(1) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(2) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(b) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan referred to in subsection (a).

(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).

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (a)(1).

(e) CONTENT.—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.

(f) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under subsection (a), as necessary.

(g) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(h) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(i) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the duties of the Director under this section.

SEC. 172. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

(e) EFFECTIVE DATE.—This section shall take effect 1 day after the date of enactment of this Act.

SEC. 173. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''March 31, 2004''.

Subtitle E—Transition Provisions

SEC. 181. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term ''agency'' includes any entity, organizational unit, or function transferred or to be transferred under this title.

(2) TRANSITION PERIOD.—The term ''transition period'' means the 1-year period beginning on the effective date of this division.

SEC. 182. 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, including fulfillment of the functions transferred under this Act, and shall include all of the information specified under paragraph (2) that the Secretary has gathered as of the date of submission. Information contained in an earlier report may be referenced, rather than set out in full, in a subsequent report. The final implementation progress report shall include any required information not yet provided.

(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 transition;

(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 executives;

(v) the location of Department headquarters, including a timeframe for relocating to the new location, an estimate of cost for the relocation, 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 any gaps, and to plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department;

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(iii) plans or progress reports on the utilization by the Department of existing personnel flexibility, provided by law or through regulations of the President and the Office of Personnel Management, to achieve the human capital needs of the Department;

(iv) any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation under this division of functions, entities, and personnel previously covered by disparate personnel systems; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibility;

(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; and

(iv) recommendations of any entities, organizational units, or functions not related to homeland security transferred to the Department that need to be transferred from the Department or terminated for the Department to function effectively.

(d) LEGISLATIVE RECOMMENDATIONS.—

(1) INCLUSION IN REPORT.—The Secretary, after consultation with the appropriate committees of Congress, shall include in the report under this section, recommendations for legislation that the Secretary determines is necessary to—

(A) facilitate the integration of transferred entities, organizational units, and functions into the Department;

(B) reorganize agencies, executive positions, and the assignment of functions within the Department;

(C) address any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation of agencies, functions, and personnel previously covered by disparate personnel systems;

(D) enable the Secretary to engage in procurement essential to the mission of the Department;

(E) otherwise help further the mission of the Department; and

(F) make technical and conforming amendments to existing law to reflect the changes made by titles I and XI.

(2) SEPARATE SUBMISSION OF PROPOSED LEGISLATION.—The Secretary may submit the proposed legislation under paragraph (1) to Congress before submitting the balance of the report under this section.

SEC. 183. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time this division takes effect, or were final before the effective date of this division and are to become effective on or after the effective date of this division,

shall, to the extent related to such functions, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary or other authorized official, or a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(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) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual in the official capacity of such 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 relating to a function transferred under this title may be continued by the Department with the same effect as if this title had not been enacted.

(f) EMPLOYMENT AND PERSONNEL.—

(1) EMPLOYEE RIGHTS.—

(A) TRANSFERRED AGENCIES.—The Department, or a subdivision of the Department, that includes an entity or organizational unit, or subdivision thereof, transferred under this Act, or performs functions transferred under this Act shall not be excluded from coverage of chapter 71 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.

(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 subsection (b)(6) of that section unless—

(i) the primary job duty of the employee is materially changed after the transfer; and

(ii) the primary job duty of the employee after such change consists of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism, if it is clearly demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(C) TRANSFERRED FUNCTIONS.—An employee of the Department who is primarily engaged in carrying out a function transferred to the Department under this Act or a function substantially similar to a function so transferred shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless the function prior to the transfer was performed by an employee excluded from a unit under that section.

(D) OTHER AGENCIES, EMPLOYEES, AND FUNCTIONS.—

(i) EXCLUSION OF SUBDIVISION.—Subject to paragraph (A), a subdivision of the Department shall not be excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title unless—

(I) the subdivision has, as a primary function, intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(II) the provisions of that chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(ii) EXCLUSION OF EMPLOYEE.—Subject to subparagraphs (B) and (C), an employee of the Department shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless the primary job duty of the employee consists of intelligence, counterintelligence, or investigative duties directly related to terrorism investigation, if it is clearly demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(E) PRIOR EXCLUSION.—Subparagraphs (A) through (D) shall not apply to any entity or organizational unit, or subdivision thereof, transferred to the Department under this Act that, on July 19, 2002, was excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title.

(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.

(3) 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 to the Department 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 to apply with respect to any appointment to the position made after such transfer to the Department has occurred.

(4) 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.

(g) NO EFFECT ON INTELLIGENCE AUTHORITIES.—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 the National Security Act of 1947, 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. 184. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY 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, use, 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.

(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 the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; 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 transferred to, or otherwise made available to, the Department may be used during the transition period for purposes in addition to those for which they were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations 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 may not be accepted, used, or 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 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004.

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; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) OFFICERS.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) INTERUNIT DELEGATION.—Any function assigned by this title 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 and XI. Not later than 15 months after the effective date of this division, and every year thereafter for the succeeding 5 years, the Comptroller General shall submit a report to Congress containing—

(1) an evaluation of the implementation progress reports submitted to Congress and the Comptroller General by the Secretary under section 182;

(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

(3) any recommendations for legislation or administrative action the Comptroller General considers appropriate.

(b) BIENNIAL 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) POINT OF ENTRY 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) RESULTS-BASED MANAGEMENT.—

(1) STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than September 30, 2003, consistent with the requirements of section 306 of title 5, 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; REVISIONS.—The strategic plan shall cover a period of not less than 5 years from the fiscal year in which it is submitted and it shall be updated and revised at least every 3 years.

(C) CONTENTS.—The strategic plan shall describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(2) PERFORMANCE PLAN.—

(A) IN GENERAL.—In accordance with 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 the goals; and

(iii) the means used to verify and validate measured values.

(C) SCOPE.—The performance plan should describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(3) PERFORMANCE REPORT.—

(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

received under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a et seq.).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (48 Stat. 948, chapter 482; 40 U.S.C. 276c).

SEC. 195. PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the head of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organizational structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each Under Secretary shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SEC. 196. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, and each budget request submitted to Congress for the National Terrorism Prevention and Response Program shall be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and the fiscal year 2005 budget request for the National Terrorism Prevention and Response Program, and for any subsequent fiscal year.

SEC. 197. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term ''critical infrastructure'' has the meaning given that term in section 1016(e) of the USA PATRIOT ACT of 2001 (42 U.S.C. 5195(e)).

(2) FURNISHED VOLUNTARILY.—

(A) DEFINITION.—The term ''furnished voluntarily'' means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) BENEFIT.—In this paragraph, the term ''benefit'' does not include any warning, alert, or other risk analysis by the Department.

(b) IN GENERAL.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) RECORDS SHARED WITH OTHER AGENCIES.—

(1) IN GENERAL.—

(A) RESPONSE TO REQUEST.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SEGREGABLE PORTION OF RECORD.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED RECORDS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNATION.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 198. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to—

(1) enable the Secretary to administer and manage the Department; and

(2) carry out the functions of the Department other than those transferred to the Department under this Act.

SA 4645. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In section 135(e)(2)(A), strike ''agency with the advice and consent of the Under Secretary.'' and insert ''agency, in consultation with the Under Secretary.''.

SA 4646. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 135(c)(3), add the following:

(F) The Secretary may provide financial support, to a nonprofit, nongovernmental enterprise established by the Secretary for the purpose of identifying and investing in new technologies that show promise for homeland security applications.

SA 4647. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 135(g) and insert the following:

(g) OFFICE OF SYSTEMS ANALYSIS AND ASSESSMENT.—

(1) ESTABLISHMENT.—There is established an Office of System Analysis and Assessment within the Directorate of Science and Technology.

(2) FUNCTIONS.—The Office of Systems Analysis and Assessment shall—

(A) assist the Under Secretary in conducting or commissioning studies related to threat assessment and risk analysis, including—

(i) analysis of responses to terrorist incidents;

(ii) scenario-based threat assessment exercises and simulations;

(iii) red teaming to predict and discern the potential methods, means, and targets of terrorists; and

(iv) economic and policy analyses of alternative counterterrorism policies;

(B) identify vulnerabilities in complex systems and weaknesses due to interconnections between infrastructure systems;

(C) identify the potential impacts of multiple attacks occurring simultaneously;

(D) assist the Under Secretary in developing a human factors engineering program to ensure that the role of people in providing security is the result of systematic evaluations of human strengths and weaknesses that technology can both complement and supplement;

(E) support the development of standards and techniques to allow for the integrated management of data regardless of its source;

(F) develop a plan to ensure technologies are deployed and licensed effectively;

(G) develop life cycle cost estimates for deployed technologies;

(H) coordinate with other entities engaged in threat assessment and risk analysis, including those within the Department, such as the Directorate of Intelligence;

(I) monitor and evaluate novel scientific findings in order to assist the Under Secretary in developing and reassessing the research and development priorities of the Department;

(J) design metrics to evaluate the effectiveness of homeland security programs;

(K) support the Directorate of Emergency Preparedness and Response in designing field tests and exercises; and

(L) perform other appropriate activities as directed by the Under Secretary

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SA 4648. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place:

Ensuring that Federal, State, and local entities share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SA 4649. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Report on Office consolidation: Not later than one year after the date of enactment of this Act, the Secretary shall issue a report to Congress on the feasibility of consolidating and co-locating (1) any regional offices or field offices of agencies that are transferred to the Department under this Act, if such offices are located in the same municipality; and (2) portions of regional and field offices of other Federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.

SA 4650. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(STATE) The term ''state'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

SA 4651. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Net Guard: The Undersecretary for Critical Infrastructure Protection may establish a national technology guard, to be known as ''Net Guard'' comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

On page 67, line 14, delete (10) and insert (11).

SA 4652. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Requirement to Comply with Laws Protecting Equal Employment Opportunity and Providing Whistleblower Protections.

Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Anti Discrimination and Retaliation Act of 2002 (Pub. L. 107–174) or (2) to provide whistleblower; protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) of such title and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002.

SA 4653. Mr. DURBIN (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 90, strike line 4, and all that follows through page 91, line 8, and insert the following:

(2) FUNCTIONS.—The Office of Risk Analysis and Assessment shall establish a comprehensive, risk-based program for assisting the Secretary to identify, prioritize, and manage the activities and resources necessary to combat terrorism and to assure homeland security. The Office shall assist the Secretary, the Under Secretary, and other Directorates with respect to their risk analysis and risk management activities by providing 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;

(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 federally funded 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) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Risk Analysis and Assessment such sums as are necessary to carry out the purpose of this subsection, including $15,000,000 in fiscal year 2003 to develop a comprehensive, risk-based process for identifying, prioritizing, and managing the activities and resources necessary to combat terrorism and to assure homeland security.

SA 4654. Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 20 and 21, insert the following:

SEC. 141. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Homeland Security Liaison Officers for Maryland, Virginia, and the District of Columbia within the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SA 4655. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill (H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____ DISASTER RELIEF AND EMERGENCY ASSISTANCE

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Homeland Security Block Grant Act of 2002''.

SEC. ____02. FINDINGS.

Congress makes the following findings:

(1) In the wake of the September 11, 2001, terrorist attacks on our country, communities all across American now find themselves on the front lines in the war against terrorism on United States soil.

(2) We recognize that these communities will be forced to shoulder a significant portion of the burden that goes along with that responsibility. We believe that local governments should not have to bear that responsibility alone.

(3) Our homeland defense will only be as strong as the weakest link at the State and local level. By providing our communities with the resources and tools they need to bolster emergency response efforts and provide for other emergency response initiatives, we will have a better-prepared home front and a stronger America.

SEC. ____03. DEFINITIONS.

(a) DEFINITIONS.—In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Emergency Management Agency (FEMA).

(2) CITY.—The term ''city'' means—

(A) any unit of general local government that is classified as a municipality by the United States Bureau of the Census; or

(B) any other unit of general local government that is a town or township and which, in the determination of the Director—

(i) possesses powers and performs functions comparable to those associated with municipalities;

(ii) is closely settled; and

(iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census that have not entered into cooperation agreements with such town or township to undertake or to assist in the performance of homeland security objectives.

(3) FEDERAL GRANT-IN-AID PROGRAM.—The term ''Federal grant-in-aid program'' means a program of Federal financial assistance other than loans and other than the assistance provided by this title.

(4) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(5) METROPOLITAN AREA.—The term ''metropolitan area'' means a standard metropolitan statistical area as established by the Office of Management and Budget.

(6) METROPOLITAN CITY.—

(A) IN GENERAL.—The term ''metropolitan city'' means—

(i) a city within a metropolitan area that is the central city of such area, as defined and used by the Office of Management and Budget; or

(ii) any other city, within a metropolitan area, which has a population of fifty thousand or more.

(B) PERIOD OF CLASSIFICATION.—Any city that was classified as a metropolitan city for at least 2 years pursuant to subparagraph (A) shall remain classified as a metropolitan city. Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Director, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d).

(C) ELECTION BY A CITY.—Notwithstanding subparagraph (B), a city may elect not to retain its classification as a metropolitan city. Any unit of general local government that was classified as a metropolitan city in any year, may, upon submission of written notification to the Director, relinquish such classification for all purposes under this title if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section ____05(e) as an urban county.

(7) NONQUALIFYING COMMUNITY.—The term ''nonqualifying community'' means an area that is not a metropolitan city or part of an urban county and does not include Indian tribes.

(8) POPULATION.—The term ''population'' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period of time.

(9) STATE.—The term ''State'' means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(10) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; a combination of such political subdivisions is recognized by the Director; and the District of Columbia.

(11) URBAN COUNTY.—The term ''urban county'' means any county within a metropolitan area.

(b) BASIS AND MODIFICATION OF DEFINITIONS.—Where appropriate, the definitions in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Director may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

(c) DESIGNATION OF PUBLIC AGENCIES.—One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake activities assisted under this title.

(d) LOCAL GOVERNMENTS, INCLUSION IN URBAN COUNTY POPULATION.—With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 2002 under section ____04, the population of any unit of general local government which is included in that of an urban county as provided in subsection (a)(11) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant as a separate entity, unless the urban county does not receive a grant for any year during such three-year period.

(e) URBAN COUNTY.—Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county, of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Director, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Director, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).

SEC. ___04. GRANTS TO STATES, UNITS OF GENERAL LOCAL GOVERNMENT AND INDIAN TRIBES; AUTHORIZATIONS.

The Director, working in consultation with the Attorney General is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this title. For purposes of assistance under section ___07, there is authorized to be appropriated $3,000,000,000 for each of fiscal years 2003 through 2006, and such additional sums as are authorized thereafter. For purposes of assistance under section ___08, there is authorized to be appropriated $500,000,000 in fiscal year 2003, and such sums as are authorized thereafter.

SEC. ___05. STATEMENT OF ACTIVITIES AND REVIEW.

(a) APPLICATION.—Prior to the receipt in any fiscal year of a grant under section ___07(b) by any metropolitan city or urban county, under section ___07(d) by any State, or under section ___07(d)(2) by any unit of general local government, the grantee shall have indicated its interest in receiving funds by preparing a statement of homeland security objectives and projected use of funds and shall have provided the Director with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section ___07(b) and in the case of units of general local government receiving grants pursuant to section ___07(d)(2), the statement of projected use of funds shall consist of proposed homeland security activities. In the case of States receiving grants pursuant to section ___07(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government. In preparing the statement, the grantee shall consider any view of appropriate law enforcement, and emergency response authorities and may, if deemed appropriate by the grantee, modify the proposed statement. A copy of the final statement shall be furnished to the Director, the Attorney General, and the Office of Homeland Security together with the certifications required under subsection (b) and, where appropriate, subsection (c). Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same procedures required in this paragraph for the preparation and submission of such statement.

(b) CERTIFICATION OF ENUMERATED CRITERIA BY GRANTEE TO SECRETARY.—Any grant under section ___07 shall be made only if the grantee certifies to the satisfaction of the Director that—

(1) it has developed a homeland security plan pursuant to section ___05 that identifies both short- and long-term homeland security needs that have been developed in accordance with the primary objective and requirements of this title; and

(2) the grantee will comply with the other provisions of this title and with other applicable laws.

(c) SUBMISSION OF ANNUAL PERFORMANCE REPORTS, AUDITS AND ADJUSTMENTS.—

(1) IN GENERAL.—Each grantee shall submit to the Director, at a time determined by the Director, a performance and evaluation report concerning the use of funds made available under section ___07, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a). The Director shall encourage and assist national associations of grantees eligible under section ___07, national associations of States, and national associations of units of general local government in nonqualifying areas to develop and recommend to the Director, within 1 year after the effective date of this sentence, uniform recordkeeping, performance reporting, evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively. Based on the Director's approval of these recommendations, the Director shall establish such requirements for use by such grantees, States, and units of general local government.

(2) REVIEWS AND AUDITS.—The Director shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

(A) in the case of grants made under section ___07(b), whether the grantee has carried out its activities and, where applicable, whether the grantee has carried out those activities and its certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

(B) in the case of grants to States made under section ___07(d), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this title and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in subparagraph (A).

(3) ADJUSTMENTS.—The Director may make appropriate adjustments in the amount of the annual grants in accordance with the Director's findings under this subsection. With respect to assistance made available to units of general local government under section ___07(d), the Director may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Director's reviews and audits under this subsection, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such units of general local government.

(d) AUDITS.—Insofar as they relate to funds provided under this title, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(e) METROPOLITAN CITY AS PART OF URBAN COUNTY.—In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Director may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of submitting a statement under section ___05 and carrying out activities under this title.

SEC. ___06. ACTIVITIES ELIGIBLE FOR ASSISTANCE.

(a) IN GENERAL.—Activities assisted under this title may include only—

(1) funding additional law enforcement, fire, and emergency resources, including covering overtime expenses;

(2) purchasing and refurbishing personal protective equipment for fire, police, and emergency personnel and acquire state-of-the-art technology to improve communication and streamline efforts;

(3) improving cyber and infrastructure security by improving—

(A) security for water treatment plants, distribution systems, and other water infrastructure; nuclear power plants and other power infrastructure;

(B) security for tunnels and bridges;

(C) security for oil and gas pipelines and storage facilities; and

(D) security for chemical plants and transportation of hazardous substances;

(4) assisting Local Emergency Planning Committees so that local public agencies can design, review, and improve disaster response systems;

(5) assisting communities in coordinating their efforts and sharing information with all relevant agencies involved in responding to terrorist attacks;

(6) establishing timely notification systems that enable communities to communicate with each other when a threat emerges;

(7) improving communication systems to provide information to the public in a timely manner about the facts of any threat and the precautions the public should take; and

(8) devising a homeland security plan, including determining long-term goals and short-term objectives, evaluating the progress of the plan, and carrying out the management, coordination, and monitoring of activities necessary for effective planning implementation.

SEC. ___07. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) ALLOCATION AND DISTRIBUTION OF FUNDS; SET-ASIDE FOR INDIAN TRIBES.—

(1) ALLOCATION.—For each fiscal year, of the amount approved in an appropriation Act under section ___04 for grants in a year (excluding the amounts provided for use in accordance with section ___06), the Director shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Director shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Director after notice and public comment.

(2) REMAINING ALLOCATION.—Of the amount remaining after allocations pursuant to paragraph (1), 70 percent shall be allocated by the Director to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant, to the extent authorized beyond fiscal year 2002, from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).

(b) COMPUTATION OF AMOUNT ALLOCATED TO METROPOLITAN CITIES AND URBAN COUNTIES.—

(1) IN GENERAL.—The Director shall determine the amount to be allocated to each metropolitan city based on the population of that metropolitan city.

(2) URBAN COUNTIES.—The Director shall determine the amount to be allocated to each urban county based on the population of that urban county.

(3) EXCLUSIONS.—In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations that are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

(A) is not part of any county;

(B) is not eligible for a grant pursuant to subsection (b)(1);

(C) is contiguous to the urban county;

(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

(E) is not included as a part of any other unit of general local government for purposes of this section.

Any independent city that is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible to receive assistance under subsection (d) with respect to such fiscal year.

(4) INCLUSIONS.—In computing amounts under this section with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if the part of such unit of local government which is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section, and if the part of such unit of local government that is not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section. Any amount received by such urban county under this section may be used with respect to the part of such unit of local government that is outside the boundaries of such urban county.

(5) POPULATION.—(A) Where data are available, the amount determined under paragraph (1) for a metropolitan city that has been formed by the consolidation of one or more metropolitan cities with an urban county shall be equal to the sum of the amounts that would have been determined under paragraph (1) for the metropolitan city or cities and the balance of the consolidated government, if such consolidation had not occurred. This paragraph shall apply only to any consolidation that—

(i) included all metropolitan cities that received grants under this section for the fiscal year preceding such consolidation and that were located within the urban county;

(ii) included the entire urban county that received a grant under this section for the fiscal year preceding such consolidation; and

(iii) took place on or after January 1, 2002.

(B) The population growth rate of all metropolitan cities referred to in section ____03 shall be based on the population of—

(i) metropolitan cities other than consolidated governments the grant for which is determined under this paragraph; and

(ii) cities that were metropolitan cities before their incorporation into consolidated governments. For purposes of calculating the entitlement share for the balance of the consolidated government under this paragraph, the entire balance shall be considered to have been an urban county.

(c) REALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), any amounts allocated to a metropolitan city or an urban county pursuant to the preceding provisions of this section that are not received by the city or county for a fiscal year because of failure to meet the requirements of subsections (a) and (b) of section ____05, or that otherwise became available, shall be reallocated in the succeeding fiscal year to the other metropolitan cities and urban counties in the same metropolitan area that certify to the satisfaction of the Director that they would be adversely affected by the loss of such amounts from the metropolitan area. The amount of the share of funds reallocated under this paragraph for any metropolitan city or urban county shall bear the same ratio to the total of such reallocated funds in the metropolitan area as the amount of funds awarded to the city or county for the fiscal year in which the reallocated funds become available bears to the total amount of funds awarded to all metropolitan cities and urban counties in the same metropolitan area for that fiscal year.

(2) TRANSFER.—Notwithstanding the provisions of paragraph (1), the Director may upon request transfer responsibility to any metropolitan city for the administration of any amounts received, but not obligated, by the urban county in which such city is located if—

(A) such city was an included unit of general local government in such county prior to the qualification of such city as a metropolitan city;

(B) such amounts were designated and received by such county for use in such city prior to the qualification of such city as a metropolitan city; and

(C) such city and county agree to such transfer of responsibility for the administration of such amounts.

(d) ALLOCATION TO STATES ON BEHALF OF NON-QUALIFYING COMMUNITIES.—

(1) IN GENERAL.—Of the amount approved in an appropriation Act under section ____04 that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a), 30 percent shall be allocated among the States for use in nonqualifying areas. The allocation for each State shall be based on the population of that State, relative to the populations of all States, excluding the population of qualifying communities. The Director shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under this paragraph and the total of the amounts available under such paragraph, make a pro rata reduction of each amount allocated to the nonqualifying communities in each State under such paragraph so that the nonqualifying communities in each State will receive an amount that represents the same percentage of the total amount available under such paragraph as the percentage which the nonqualifying areas of the same State would have received under such paragraph if the total amount available under such paragraph had equaled the total amount which was allocated under such paragraph.

(2) DISTRIBUTION.—(A) Amounts allocated under paragraph (1) shall be distributed to units of general local government located in nonqualifying areas of the State to carry out activities in accordance with the provisions of this title—

(i) by a State that has elected, in such manner and at such time as the Director shall prescribe, to distribute such amounts consistent with the statement submitted under section ____05(a); or

(ii) by the Director, in any case described in subparagraph (B), for use by units of general local government in accordance with paragraph (3)(B).

(B) The Director shall distribute amounts allocated under paragraph (1) if the State has not elected to distribute such amounts.

(C) To receive and distribute amounts allocated under paragraph (1), the State must certify that it, with respect to units of general local government in nonqualifying areas—

(i) provides or will provide technical assistance to units of general local government in connection with homeland security initiatives;

(ii) will not refuse to distribute such amounts to any unit of general local government on the basis of the particular eligible activity selected by such unit of general local government to meet its homeland security objectives, except that this clause may not be considered to prevent a State from establishing priorities in distributing such amounts on the basis of the activities selected; and

(iii) has consulted with local elected officials from among units of general local government located in nonqualifying areas of that State in determining the method of distribution of funds required by subparagraph (A).

(D) To receive and distribute amounts allocated under paragraph (1), the State shall certify that each unit of general local government to be distributed funds will be required to identify its homeland security objectives, and the activities to be undertaken to meet such objectives.

(3) MINIMUM AMOUNT.—

(A) IN GENERAL.—Each State (other than the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) shall receive for each fiscal year a base amount of $18,000,000 of the total amount appropriated for each fiscal year for grants made available to States under this section.

(B) DISTRICT OF COLUMBIA AND TERRITORIES.—The District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall each receive for each fiscal year $3,000,000 of the total amount appropriated for each fiscal year for grants made available to States under this section.

(4) ADMINISTRATION.—(A) If the State receives and distributes such amounts, it shall be responsible for the administration of funds so distributed. The State shall pay from its own resources all administrative expenses incurred by the State in carrying out its responsibilities under this title, except that from the amounts received for distribution in nonqualifying areas, the State may deduct an amount to cover such expenses and its administrative expenses not to exceed the sum of $150,000 plus 50 percent of any such expenses under this title in excess of $150,000. Amounts deducted in excess of $150,000 shall not exceed 2 percent of the amount so received.

(B) If the Director distributes such amounts, the distribution shall be made in accordance with determinations of the Director pursuant to statements submitted and the other requirements of section ____05 (other than subsection (c)) and in accordance with regulations and procedures prescribed by the Director.

(C) Any amounts allocated for use in a State under paragraph (1) that are not received by the State for any fiscal year because of failure to meet the requirements of subsection (a) or (b) of section ____05 shall be added to amounts allocated to all States under paragraph (1) for the succeeding fiscal year.

(D) Any amounts allocated for use in a State under paragraph (1) that become available as a result of the closeout of a grant made by the Director under this section in nonqualifying areas of the State shall be added to amounts allocated to the State under paragraph (1) for the fiscal year in which the amounts become so available.

(5) SINGLE UNIT.—Any combination of units of general local governments may not be required to obtain recognition by the Director pursuant to section ____03(2) to be treated as a single unit of general local government for purposes of this subsection.

(6) DEDUCTION.—From the amounts received under paragraph (1) for distribution in nonqualifying areas, the State may deduct an amount, not to exceed 1 percent of the

amount so received, to provide technical assistance to local governments.

(7) APPLICABILITY.—Any activities conducted with amounts received by a unit of general local government under this subsection shall be subject to the applicable provisions of this title and other Federal law in the same manner and to the same extent as activities conducted with amounts received by a unit of general local government under subsection (a).

(e) QUALIFICATIONS AND DETERMINATIONS.—The Director may fix such qualification or submission dates as he determines are necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

(f) PRO RATA REDUCTION AND INCREASE.—If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section is insufficient to provide the amounts to which metropolitan cities and urban counties would be entitled under subsection (b), and funds are not otherwise appropriated to meet the deficiency, the Director shall meet the deficiency through a pro rata reduction of all amounts determined under subsection (b). If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section exceeds the amounts to which metropolitan cities and urban counties would be entitled under subsection (b), the Director shall distribute the excess through a pro rata increase of all amounts determined under subsection (b).

SEC. ___08. STATE AND REGIONAL PLANNING; COMMUNICATIONS SYSTEMS.

(a) IN GENERAL.—Pursuant to section ___04, $500,000,000 shall be used for homeland defense planning within the States by the States, for interstate, multistate or regional authorities, and within regions through regional cooperations; the development and maintenance of Statewide training facilities and homeland best-practices clearinghouses; and the development and maintenance of communications systems that can be used between and among first responders, including law enforcement, fire, and emergency medical personnel as follows:

(1) $325,000,000 to the States, and interstate, multistate or regional authorities for homeland defense planning, coordination, and implementation;

(2) $50,000,000 to regional cooperations for homeland defense planning and coordination;

(3) $50,000,000 to the States for the development and maintenance of Statewide training facilities and best-practices clearinghouses; and

(4) $75,000,000 to the States for the States and for local communities for the development and maintenance of communications systems that can be used between and among first responders at the State and local level, including law enforcement, fire, and emergency personnel.

(b) ALLOCATIONS.—Funds under this section to be awarded to States shall be allocated among the States based upon the population for each State relative to the populations of all States. The ''minimum amount'' provision set forth in section ___07(d)(3) shall apply to funds awarded under this section to States. With respect to subsection (a)(4), at least 30 percent of the funds awarded must be used for the development and maintenance of local communications systems.

(c) REGIONAL COOPERATIONS.—Funds under this section to be awarded to regional cooperations shall be allocated among the regional cooperations based upon the population of the areas covered by the cooperations.

SEC. ___09. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.

No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any such program or activity.

SEC. ___10. REMEDIES FOR NONCOMPLIANCE WITH REQUIREMENTS.

If the Director finds after reasonable notice and opportunity for hearing that a recipient of assistance under this title has failed to comply substantially with any provision of this title, the Director, until he is satisfied that there is no longer any such failure to comply, shall—

(1) terminate payments to the recipient under this title;

(2) reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title; or

(3) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

SEC. ___11. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the close of each fiscal year in which assistance under this title is furnished, the Director shall submit to Congress a report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this title;

(2) a summary of the use of such funds during the preceding fiscal year; and

(3) a description of the activities carried out under section ___07.

(b) REPORTS TO THE DIRECTOR.—The Director is authorized to require recipients of assistance under this title to submit to him such reports and other information as may be necessary in order for the Director to make the report required by subsection (a).

SEC. ___12. CONSULTATION BY ATTORNEY GENERAL.

In carrying out the provisions of this title including the issuance of regulations, the Director shall consult with the Attorney General (especially as to any issues of concern to the law enforcement community at the State and local level), the Office of Homeland Security, and other Federal departments and agencies administering Federal grant-in-aid programs.

SEC. ___13. INTERSTATE AGREEMENTS OR COMPACTS; PURPOSES.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of homeland security planning and programs carried out under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

SEC. ___14. MATCHING REQUIREMENTS; SUSPENSION OF REQUIREMENTS FOR ECONOMICALLY DISTRESSED AREAS.

(a) REQUIREMENT.—Grant recipients shall contribute from funds, other than those received under this title, 10 percent of the total funds received under this title. Such funds shall be used in accordance with the grantee's statement of homeland security objectives.

(b) ECONOMIC DISTRESS.—Grant recipients that are deemed economically distressed shall be waived from the matching requirement set forth in this section.

SA 4656. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, beginning with line 8, strike through line 7 on page 130.

SA 4657. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 7 and 8, insert the following:

(d) REDUCTION OF AUTHORIZATIONS.—Each amount authorized by subsection (a)(1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized.

SA 4658. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, strike lines 23 through 25.

SA 4659. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, line 25, strike ''locomotives.'' and insert ''locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.''.

SA 4660. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, beginning with line 8, strike through line 7 on page 130, and insert the following:

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) EMERGENCY AMTRAK ASSISTANCE.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) $375,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment;

(B) $778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland; and

(C) $55,000,000 for the emergency repair, and returning to service, of Amtrak passenger cars and locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) PLAN REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades, including the emergency repair of passenger cars and locomotives, until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the Secretary of Homeland Security, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to Amtrak for the purpose for which the funds are provided.

(4) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) REVIEW OF PLAN.—The Secretary of Transportation shall complete the review of the plan required by paragraph (3) and approve or disapprove the plan within 45 days after the date on which the plan is submitted by Amtrak. If the Secretary determines that the plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall approve the portions of the plan that are complete and sufficient, release associated funds, and Amtrak shall execute an agreement with the Secretary within 15 days thereafter on a process for completing the remaining portions of the plan.

(6) 50–PERCENT TO BE SPENT OUTSIDE THE NORTHEAST CORRIDOR.—The Secretary of Transportation shall ensure that up to 50 percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(7) ASSESSMENTS BY DOT INSPECTOR GENERAL.—

(A) INITIAL ASSESSMENT.—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated pursuant to paragraph (1).

(B) OVERLAP REVIEW.—The Inspector General shall, as part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the obligation and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are provided under this Act.

(8) COORDINATION WITH EXISTING LAW.—Amounts made available to Amtrak under this sub-section shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

(9) REDUCTION OF AUTHORIZATIONS.—Each amount authorized by paragraph (1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized.

SA 4661. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I of division A, add the following:

SEC. 173. FIRST RESPONDER PERSONNEL COSTS.

Local governments receiving Federal homeland security funding under this Act, whether directly or as a pass-through from the States, may use up to 20 percent of Federal funds received for first time responder personnel costs, including overtime costs.

SA 4662. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1. FINDINGS.

The Congress finds the following:

(1) Even before the terrorist attacks of September 11, 2002, American citizens were a target of choice for terrorist organizations.

(2) The United States has a strong interest in ensuring that those who commit terrorist acts against Americans and American interests are apprehended and prosecuted to the full extent of the law.

(3) Under United States law, individuals who commit acts of international terrorism outside of the United States may be prosecuted for such acts in the United States.

(4) Despite vigorous, sustained diplomatic efforts and financial assistance, little has been done to apprehend, indict, prosecute, and convict individuals who have committed terrorist attacks against nationals of the United States, including in areas such as those controlled by the Palestine Authority.

SEC. 2. ESTABLISHMENT OF OFFICE IN THE DEPARTMENT OF HOMELAND SECURITY TO MONITOR TERRORIST ACTS AGAINST AMERICANS ABROAD, TO PROVIDE INFORMATION AND SUPPORT SERVICES TO FAMILY MEMBERS OF THE VICTIMS OF TERRORISM, AND CARRY OUT RELATED ACTIVITIES.

(a) IN GENERAL.—The President shall establish within the Department of Homeland Security an office to carry out the following activities:

(1) Monitor acts of international terrorism against United States citizens.

(2) Collect information against individuals alleged to have committed acts of international terrorism described in paragraph (1).

(3) Offer rewards for information on individuals alleged to have committed acts of international terrorism described in paragraph (1), including the dissemination of information relating to such rewards in appropriate foreign media.

(4) Negotiate with the foreign governments, government authorities, or entities governing the nation or territory on which the terrorist act described in paragraph (1) occurred to obtain financial compensation for nationals of the United States, or their families, injured or killed by such acts of terrorism.

(5) In conjunction with other appropriate Federal agencies, seek justice for individuals who commit acts of terrorism described in paragraph (1), whether through indictment, effective prosecution abroad, or extradition to the United States.

(6) Contact the families of victims of acts of terrorism described in paragraph (1) and provide regular updates on the progress to apprehend, indict, prosecute, and convict the individuals who commit such acts.

(7) In any country or territory in which a terrorist act against an American occurs, providing training for an appropriate number of United States officials abroad to carry out the effective execution of paragraphs (1) through (6).

(8) In consultation with the Secretary of State, provide information and a full report on the status of apprehension, indictment, and prosecution of individuals who commit acts of terrorism against Americans abroad as part of the Department's annual ''Patterns of Global Terrorism'' report established in section 2656f(a) of Title 22 of the U.S. Code.

(b) DEFINITION.—In this section, the term 'international terrorism' has the meaning given such term in section 2331(1) of title 18, United States Code.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for fiscal year 2003 and each subsequent fiscal year such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

SA 4663. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SENSE OF THE CONGRESS.—It is the Sense of the Congress that the Department of Homeland Security shall comply with all laws protecting the civil rights and civil liberties of U.S. persons.

SA 4664. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

It is the Sense of the Congress that the Department of Homeland Security shall comply with all laws protecting the privacy of U.S. persons.

SA 4665. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

TITLE ____ TRANSFER OF FUNCTIONS OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS TO THE DEPARTMENT OF JUSTICE

Sec. 101. TRANSFER OF FUNCTIONS.

Notwithstanding any other provision of law, there are transferred to the Attorney General the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, which shall be maintained as a distinct entity within the Department of Justice, including the functions of the Secretary of the Treasury relating thereto.

SEC. 201. BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.

(a) There is established in the Department of Justice an agency that shall be known as the Bureau of Alcohol, Tobacco and Firearms, hereinafter known as the ''Bureau.'' Subject to the direction of the Attorney General, the Bureau shall be the primary agency within the Department of Justice for enforcement of the Federal firearms, explosives, arson, alcohol and tobacco laws, as well as all regulatory enforcement and revenue collection functions of the firearms, explosives, alcohol and tobacco laws, to include the functions transferred by section 301 of this Act, as well as any other functions related to the investigation of violent crime as the Attorney General may delegate to the bureau.

(b) There shall be at the head of the Bureau the Director, Bureau of Alcohol, Tobacco and Firearms, hereinafter known as the ''Director.'' The Director shall perform such functions as the Attorney General shall from time to time direct. The office of Director shall be a career-reserved position within the Senior Executive Service. The Bureau shall have as its chief legal officer a Chief Counsel, who shall be a career-reserved officer within the Senior Executive Service.

SEC. 301. FUNCTIONS TRANSFERRED TO THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF jUSTICE.

(a) Chapter 40 of title 18, United States Code, is amended—

(1) In section 841(k) by striking '''Secretary' means the Secretary of the Treasury or his delegate'' and inserting '''Attorney General' means the Attorney General of the United States.''

(2) by striking ''Secretary'' each place it appears and inserting ''Attorney General''.

(b) Section 103 of Pub. L. 90–618 is amended by striking ''Secretary of the Treasury'' and inserting ''Attorney General''.;

(c) Chapter 44 of title 18, United States Code, is amended—

(1) In section 921(a)(4)(B), by striking ''Secretary'' and inserting ''Attorney General'';

(2) In the undesignated clause following section 921(a)(4)(C), and in section 923(l), by striking ''Secretary of the Treasury'' and inserting ''Attorney General'';

(3) In section 921(a)(18), by striking ''Secretary' or 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate'' and inserting ''Attorney General means the Attorney General of the United States''; and

(4) Except in sections 921(a)(4) and 922(p)(5), by striking the term ''Secretary'' each place it appears, and inserting the term ''Attorney General''.

(d) Chapter 203 of title 18, United States Code, is amended by adding a new section 3051 to read as follows:

''§ 3051. Powers of Agents of Bureau of Alcohol, Tobacco and Firearms.

(a) Special agents of the Bureau of Alcohol, tobacco and Firearms whom the Attorney General charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

(b) Any special agent of the Bureau of Alcohol, Tobacco and Firearms may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.''

(c)(1) Except as provided in paragraph (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of Title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to—

(A) the Seizure, summary and judicial forfeiture, and condemnation of property;

(B) the disposition of such property;

(C) the remission or mitigation of such forfeiture; and

(D) the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable provision of law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms,

(2) For purposes of paragraph (1), duties that are imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Attorney General.''

(3) Notwithstanding any other provisions of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.

(e) Chapter 114 of title 18, United States Code, is amended—

(1) in section 2341(5) by striking ''''Secretary' means the Secretary of the Treasury'' and inserting '''Attorney General' means the Attorney General of the United States.''; and

(2) by striking ''Secretary'' each place it appears and inserting ''Attorney General''.

(f) Section 1261 of title 18, United States Code, is amended by striking subsection (a) and inserting the new subsection (a) to read as follows:

''(a) The Attorney General shall enforce the provisions of this chapter, and has the authority to issue regulations to carry out its provisions.''

(g) Section 1952(c) of title 18, United States Code, is amended by striking ''Secretary of the Treasury'' and inserting ''Attorney General.''

(h) Section 7801(a) is amended—

(1) by inserting ''(1)'' before ''Except''; and

(2) by inserting a new paragraph (2) to read as follows:

''(2) The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the terms ''Secretary'' or ''Secretary of the Treasury'' shall, when applied to those provisions, mean the Attorney General; and the term ''internal revenue offer'' shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco and Firearms so designated by the Attorney General; provided that, the Attorney General shall adopt all rulings and interpretations of the Bureau of Alcohol, Tobacco and Firearms in existence on the effective date of this Act which concern the following provisions of this title and shall consult with the Secretary of the Treasury to achieve uniformity and consistency in administering such laws:

(A) sections 4181 and 4182 of chapter 32 of this title;

(B) subchapters F and G of chapter 32 of this title, insofar as they relate to the provisions of sections 4181 and 4182 of chapter 32;

(C) chapters 51, 52, and 53 of this title; and

(D) chapters 61 and 80, inclusive, of this title, insofar as they relate to the enforcement and administration of the provisions named in subparagraphs (A), (B), and (C) of this paragraph.

(i) Chapter 1 of Title 27, United States Code, is amended by adding a new section 1 to read as follows:

'' §1. The administration and enforcement of this title shall be performed by or under the supervision of the Attorney General; and the term ''Secretary'' or ''Secretary of the Treasury'' shall, when applied to those provisions, mean the Attorney General.''

SEC. 4091. CONFORMING CHANGES.

(a) Section 2006 of title 28, United States Code , is amended by inserting'', the Attorney General,'' after ''the Secretary of the Treasury''.

(b) Section 9703 of title 31, United States Code, is amended—

(1) by striking subsection (a)(2)(B)(v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated, by striking '', the Bureau of Alcohol, Tobacco and Firearms''.

(c) Section 13921(a) of title 42, United States Code, is amended by striking ''Secretary of the Treasury'' each place it appears and inserting in lieu thereof ''Attorney General''.

(d) Section 80303 of title 49, United States Code, is amended—

(1) by adding ''or, when the violation of this chapter involves contraband described in section 80302(a)(2) or (a)(5) of this title, the Attorney General'' after ''section 80304 of this title,''; and

(2) by inserting ''or the Attorney General'' after ''or appropriate Governor''.

(e) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking ''(b) and (c)'' and inserting ''(b), (c), and (d)'';

(2) by redesignating current subsection (d) as subsection (e); and

(3) by adding a new subsection (d) to read as follows:

''(d) Attorney General.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco and Firearms, Department of Justice designated by

the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302(a)(2) or (a)(5).''

SEC. 501. EXPLOSIVES TRAINING AND RESEARCH FACILITY.

(a) IN GENERAL.—The Director, Bureau of Alcohol, Tobacco and Firearms, Department of Justice, shall use the funds made available pursuant to subsection (b) to establish an Explosives Training and Research Facility at Fort AP Hill, Fredericksburg, Virginia. Such facility shall be utilized to train Federal, State, and local law enforcement officers on investigating bombings and arsons, proper handling, utilization, and disposal of explosive materials and devices, training of explosive detection canines, and conducting research on explosives and arson.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Bureau of Alcohol, Tobacco and Firearms such sums as shall be necessary to establish and maintain the facility referenced in subsection (a). Funds made available pursuant to this subsection in any fiscal year shall remain available until expended.

SEC. 601. PERSONAL PAY MANAGEMENT SYSTEM.

Notwithstanding any other provision of law, the Personal Pay Management System Program established under Section 102 of Title I, Div., of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999, Pub. L. No. 105–277, 122 Stat. 2681 (5 U.S.C. 3104) shall be transferred to the Attorney General of the United States for the Bureau of Alcohol, Tobacco and Firearms.

SEC. 701. SENIOR EXECUTIVE SERVICE.

Notwithstanding any other provision of law, all Senior Executive Service positions allocated by the Department of the Treasury to the Bureau of Alcohol, Tobacco and Firearms, including the Office of Chief Counsel, shall be transferred to the Attorney General of the United States for the Bureau of Alcohol, Tobacco and Firearms.

SEC. 801. PERMITS FOR PURCHASERS OF EXPLOSIVES.

(a) DEFINITIONS.—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:

''(j) 'Permittee' means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited user permit under the provisions of this chapter.''; and

(2) by adding at the end the following:

''(r) 'Alien' means any person who is not a citizen or national of the United States.

''(s) 'Intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabits or has cohabited with the person.

''(t)(1) Except as provided in paragraph (2), 'misdemeanor crime of domestic violence' means an offense that—

''(A) is a misdemeanor under Federal or State law; and

''(B) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

''(2) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

''(A) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

''(B) in the case of a prosecution for an offense described in this subsection for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either—

''(i) the case was tried by a jury; or

''(ii) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

''(u) 'Responsible person' means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.''.

(b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking ''and'' at the end;

(2) by striking subsection (a)(3) and inserting the following:

''(3) other than a licensee or permittee knowingly—

''(A) to transport, ship, cause to be transported, or receive any explosive materials; or

''(B) to distribute explosive materials to any person other than a licensee or permittee; or

''(4) who is a holder of a limited user permit—

''(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

''(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited user permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited user permit holder.''; and

(3) by striking subsection (b) and inserting the following:

''(b) It shall be unlawful for any licensee or permittee knowingly to distribute any explosive materials to any person other than—

''(1) a licensee;

''(2) a holder of a user permit; or

''(3) a holder of a limited user permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.''.

(c) LICENSES AND USER PERMITS.—Section 843(a) of title 18, United States Code, is amended—

(1) by inserting ''or limited user permit'' after ''user permit'' in the first sentence;

(2) by inserting before the period at the end of the first sentence the following: '', including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person''; and

(3) by striking the third sentence and inserting ''Each license or user permit shall be valid for no longer than 3 years from the date of issuance and each limited user permit shall be valid for no longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.''

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person who is prohibited from receiving, distributing, transporting, or possessing explosive materials under subsection (d) or (i) of section 842;'';

(2) by striking paragraph (4) and inserting the following:

''(4) the applicant has a place of storage for explosive materials that the Secretary may verify by inspection or such other means as the Secretary determines to be appropriate, meets such standards of public safety and security against theft as the Secretary shall prescribe by regulations;''

(3) in paragraph (5), by striking the period at the end; and

(4) by adding at the end the following:

''(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is a person whose possession of explosives would be unlawful under section 842(i); and

''(7) in the case of a limited user permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited user permit is valid.''

(e) Application Approval.—Section 843(c) of title 18, United States Code, is amended by striking ''forty-five days'' and inserting ''45 days for limited user permits and 90 days for licenses and user permits,''

(f) Inspection Authority.—Section 843(f) of title 18, United States Code, is amended in the second sentence, by striking ''permittee'' the first time it appears and inserting ''holder of a user permit''.

(g) Posting of Permits.—Section 843(g) of title 18, United States Code, is amended by inserting ''user'' before ''permits''.

(h) Background Checks; Clearances.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

''(h)(1) If the Secretary receives from an employer the name and other identifying information with respect to a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether possession of explosives by the responsible person or the employee, as the case may be, would be unlawful under section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

''(2)(A) If the Secretary determines that possession of explosives by the responsible person or the employee would not be lawful under section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a letter of clearance which confirms the determination.

''(B) If the Secretary determines that possession of explosives by the responsible person or the employee would be unlawful under section 942(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

''(i) confirms the determination;

''(ii) explains the grounds for the determination;

''(iii) provides information on how the disability may be relieved; and

''(iv) explains how the determination may be appealed.''.

(i) Effective Date.—

(1) In general.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) Exception.—Notwithstanding any provision of this title, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

SEC. 901. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) Distribution of Explosives.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking ''or'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''or who has been committed to a mental institution;''; and

(3) by adding at the end the following:

''(7) is an alien, other than an alien who—

''(A) is lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act); or

(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

''(i) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement;

''(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or 21

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence;

''(8) has been discharged from the armed forces under dishonorable conditions;

''(9) having been a citizen of the United States, has renounced the citizenship of that person;

''(10) is subject to a court order that—

''(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

''(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

''(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

''(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

''(11) has been convicted in any court of a misdemeanor crime of domestic violence.''.

(b) POSSESSION OF EXPLOSIVE MATERIALS.—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking ''or'' at the end; and

(2) by inserting after paragraph (4) the following:

''(5) who is an alien, other than an alien who—

''(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

''(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

''(i) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement;

''(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence;

''(6) who has been discharged from the armed forces under dishonorable conditions;

''(7) who, having been a citizen of the United States, has renounced the citizenship of that person;

''(8) who is subject to a court order that—

''(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

''(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

''(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

''(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

''(9) who has been convicted in any court of a misdemeanor crime of domestic violence.''.

SEC. 1001. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''(i) FURNISHING OF SAMPLES.—

''(1) IN GENERAL.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

''(A) samples of such explosive materials or ammonium nitrate;

''(B) information on chemical composition of those products; and

''(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

''(2) REIMBURSEMENT.—The Secretary may, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.''.

SEC. 1101. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word ''shall'' the following: ''or any institution or organization receiving Federal financial assistance,''.

SEC. 1201. RELIEF FROM DISABILITIES.

Section 845(b) of title 18, United States Code, is amended to read as follows:

''(b) RELIEF FROM DISABILITIES.—

''(1) PROHIBITED PERSONS.—

''(A) IN GENERAL.—Except as provided in paragraph (2), a person who is prohibited from engaging in activity under section 842 may make application to the Secretary for relief from the disabilities imposed by Federal law with respect to a violation of that section, and the Secretary may grant that relief, if the Secretary determines that—

''(i) the circumstances regarding the disability, and the record and reputation of the applicant are such that the applicant will not be likely to act in a manner dangerous to public safety; and

''(ii) that the granting of the relief will not be contrary to the public interest.

''(B) PETITION FOR JUDICIAL REVIEW.—Any person whose application for relief from disabilities under this section is denied by the Secretary may file a petition with the United States district court for the district in which that person resides for a judicial review of the denial.

''(C) ADDITIONAL EVIDENCE.—The court may, in its discretion, admit additional evidence where failure to do so would result in a miscarriage of justice.

''(D) FURTHER OPERATIONS.—A licensee or permittee who conducts operations under this chapter and makes application for relief from the disabilities under this chapter, shall not be barred by that disability from further operations under the license or permit of that person pending final action on an application for relief filed pursuant to this section.

''(E) NOTICE.—Whenever the Secretary grants relief to any person pursuant to this section, the Secretary shall promptly publish in the Federal Register, notice of that action, together with reasons for that action.

''(2) WAIVER FOR LAWFUL NONIMMIGRANTS.—

''(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States in a lawful nonimmigrant status may receive a waiver from the requirements of subsection (d)(7) or (i)(5) of section 842, if—

''(i) the individual submits to the Secretary a petition that meets the requirements of subparagraph (C); and

''(ii) the Secretary approves the petition.

''(B) PETITION.—Each petition submitted in accordance with this subsection shall—

''(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

''(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire explosives and certifying that the alien would not, absent the application of subsection (d)(7) or (i)(5) of section 842, otherwise be prohibited from such an acquisition under that subsection (d) or (i).

''(C) APPROVAL OF PETITION.—The Secretary may approve a petition submitted in accordance with this paragraph if the Secretary determines that waiving the requirements of subsection (d)(7) or (i)(5) of section 842 with respect to the petitioner—

''(i) would not jeopardize the public safety; and

''(ii) will not be contrary to the public interest.''

SEC. 1301. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(p) THEFT REPORTING REQUIREMENT.—

''(1) IN GENERAL.—A holder of a license, user permit, or limited user permit who knows that explosive materials have been stolen from that licensee, user permittee, or limited user permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

''(2) PENALTY.—A holder of a license, user permit, or limited user permit who does not report a theft in accordance with paragraph (1), shall be fined not more than $10,000, imprisoned not more than 5 years, or both.''.

SEC. 1401. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this title and the amendments made by this title.

SA 4666. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 7 and 8, insert the following:

(d) RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(1) INVESTIGATION AND SURVEILLANCE ACTIVITIES.—Section 20105 of title 49, United States Code, is amended—

(A) by striking ''Secretary of Transportation'' in the first sentence of subsection (a) and inserting ''Secretary concerned'';

(B) by striking ''Secretary'' each place it appears (except the first sentence of subsection (a)) and inserting ''Secretary concerned'';

(C) by striking ''Secretary's duties under chapters 203–213 of this title'' in subsection (d) and inserting ''duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)'';

(D) by striking ''chapter.'' in subsection (f) and inserting ''chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).''; and

(E) by adding at the end the following new subsection:

''(g) DEFINITIONS.—In this section—

''(1) the term 'safety' includes security; and

''(2) the term 'Secretary concerned' means—

''(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

''(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.''.

(2) REGULATIONS AND ORDERS.—Section 20103(a) of such title is amended by inserting after ''1970.'' the following: ''When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.''.

(3) NATIONAL UNIFORMITY OF REGULATION.—Section 20106 of such title is amended—

(A) by inserting ''and laws, regulations, and orders related to railroad security'' after ''safety'' in the first sentence;

(B) by inserting ''or security'' after ''safety'' each place it appears after the first sentence; and

(C) by striking ''Transportation'' in the second sentence and inserting ''Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),''.

(e) HAZARDOUS MATERIAL TRANSPORTATION.—

(1) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—

(A) by striking ''transportation'' the first place it appears in subsection (b)(1) and inserting ''transportation, including security,'';

(B) by striking ''aspects'' in subsection (b)(1)(B) and inserting ''aspects, including security,''; and

(C) by adding at the end the following:

''(c) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.''.

(2) PREEMPTION.—Section 5125 of that title is amended—

(A) by striking ''chapter or a regulation prescribed under this chapter''in subsection (a)(1) and inserting ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security'';

(B) by striking ''chapter or a regulation prescribed under this chapter.'' in subsection (a)(2) and inserting ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.''; and

(C) by striking ''chapter or a regulation prescribed under this chapter,'' in subsection (b)(1) and inserting ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security,''.

SA 4667. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, beginning with line 4, strike through line 2 on page 131, and insert the following:

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) EMERGENCY AMTRAK ASSISTANCE.

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) $375,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment;

(B) $778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland; and

(C) $55,000,000 for the emergency repair, and returning to service, of Amtrak passenger cars and locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) PLAN REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades, including the emergency repair of passenger cars and locomotives, until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the Secretary of Homeland Security, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to Amtrak for the purpose for which the funds are provided.

(4) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) REVIEW OF PLAN.—The Secretary of Transportation shall complete the review of the plan required by paragraph (3) and approve or disapprove the plan within 45 days after the date on which the plan is submitted by Amtrak. If the Secretary determines that the plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall approve the portions of the plan that are complete and sufficient, release associated funds, and Amtrak shall execute an agreement with the Secretary within 15 days thereafter on a process for completing the remaining portions of the plan.

(6) 50-PERCENT TO BE SPENT OUTSIDE THE NORTHEAST CORRIDOR.—The Secretary of Transportation shall ensure that up to 50 percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(7) ASSESSMENTS BY DOT INSPECTOR GENERAL.

(A) INITIAL ASSESSMENT.—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated pursuant to paragraph (1).

(B) OVERLAP REVIEW.—The Inspector General shall, as part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the

obligation and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are provided under this Act.

(8) COORDIATION WITH EXISTING LAW.—Amounts made available to Amtrak under this subsection shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United State Code.

(9) REDUCTION OF AUTHORIZATION.—Each amount authorized by paragraph (1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized.

SA 4668. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, beginning with line 4, strike through line 2 on page 131, and insert the following:

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) EMERGENCY AMTRAK ASSISTANCE.

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) $375,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment;

(B) $778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland; and

(C) $55,000,000 for the emergency repair, and returning to service, of Amtrak passenger cars and locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) PLAN REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades, including the emergency repair of passenger cars and locomotives, until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the Secretary of Homeland Security, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to Amtrak for the purpose for which the funds are provided.

(4) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) 50-PERCENT TO BE SPENT OUTSIDE THE NORTHEAST CORRIDOR.—The Secretary of Transportation shall ensure that up to 50 percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(6) ASSESMENTS BY DOT INSPECTOR GENERAL.

(A) INITIAL ASSESSMENT.—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated pursuant to paragraph (1).

(B) OVERLAP REVIEW.—The Inspector General shall, as part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the obligation and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are provided under this Act.

(7) COORDINATION WITH EXISTING LAW.—Amounts made available to Amtrak under this subsection shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

(8) REDUCTION OF AUTHORIZATIONS.—Each amount authorized by paragraph (1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized.

SA 4669. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SHORT TITLE.

This Act may be cited as the ''Emergency Communications and Competition Act of 2002''.

SEC. ___. PURPOSES.

The purposes of this Act are as follows:

(1) To facilitate the deployment of new wireless telecommunications networks in order to extend the reach of the Emergency Alert System (EAS) to viewers of multichannel video programming who may not receive Emergency Alert System warnings from other communications technologies.

(2) To ensure that emergency personnel have priority access to communications facilities in times of emergency.

(3) To promote the rapid deployment of low cost multi-channel video programming and broadband Internet services to the public, without causing harmful interference to existing telecommunications services.

(4) To ensure the universal carriage of local television stations, including any Emergency Alert System warnings, by multichannel video programming distributors in all markets, regardless of population.

(5) To advance the public interest by making available new high speed data and video services to unserved and underserved populations, including schools, libraries, tribal lands, community centers, senior centers, and low-income housing.

(6) To ensure that new technologies capable of fulfilling the purposes set forth in paragraphs (1) through (5) are licensed and deployed promptly after such technologies have been determined to be technologically feasible.

SEC. ___. LICENSING.

(a) GRANT OF CERTAIN LICENSES.—

(1) IN GENERAL.—The Federal Communications Commission shall assign licenses in the 12.2–12.7 GHz band for the provision of fixed terrestrial services using the rules, policies, and procedures used by the Commission to assign licenses in the 12.2–12.7 GHz band for the provision of international or global satellite communications services in accordance with section 647 of the Open-market Reorganization for the Betterment of International Telecommunications Act (47 U.S.C. 765f).

(2) DEADLINE.—The Commission shall accept for filing and grant licenses under paragraph (1) to any applicant that is qualified pursuant to subsection (b) not later than six months after the date of the enactment of this Act. The preceding sentence shall not be construed to preclude the Commission from granting licenses under paragraph (1) after the deadline specified in that sentence to applicants that qualify after that deadline.

(b) QUALIFICATIONS.—

(1) NON-INTERFERENCE WITH DIRECT BROADCAST SATELLITE SERVICE.—A license may be granted under this section only if operations under the license will not cause harmful interference to direct broadcast satellite service.

(2) ACCEPTANCE OF APPLICATIONS.—The Commission shall accept an application for a license to operate a fixed terrestrial service in the 12.2–12.7 GHz band if the applicant—

(A) successfully demonstrates the terrestial technology it will employ under the license with operational equipment that it furnishes, or has furnished, for independent testing pursuant to section 1012 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110); and

(B) certifies in its application that it has authority to use such terrestrial service technology under the license.

(3) CLARIFICATION.—Section 1012(a) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110(a); 114 Stat. 2762A—141) is amended by inserting '', or files,'' after ''has filed''.

(4) PCS OR CELLULAR SERVICES.—A license granted under this section may not be used for the provision of Personal Communications Service or terrestrial cellular telephony service.

(c) PROMPT COMMENCEMENT OF SERVICE.—In order to facilitate and ensure the prompt deployment of service to unserved and underserved areas and to prevent stockpiling or warehousing of spectrum by licenses, the Commission shall require that any licensee under this section commence service to consumers within five years of the grant of the license under this section.

(d) EXPANSION OF EMERGENCY ALERT SYSTEM.—Each licensee under this section shall disseminate Federal, State, and local Emergency Alert System warnings to all subscribers of the licensee under the license under this section.

(e) ACCESS FOR EMERGENCY PERSONNEL.—

(1) REQUIREMENT.—Each licensee under this section shall provide immediate access for national security and emergency preparedness personnel to the terrestrial services covered by the license under this section as follows:

(A) Whenever the Emergency Alert System is activated.

(B) Otherwise at the request of the Secretary of Homeland Security.

(2) NATURE OF ACCESS.—Access under paragraph (1) shall ensure that emergency data is transmitted to the public, or between emergency personnel, at a higher priority than any other data transmitted by the service concerned.

(f) ADDITIONAL PUBLIC INTEREST OBLIGATIONS.—

(1) ADDITIONAL OBLIGATIONS.—Each licensee under this section shall—

(A) adhere to rules governing carriage of local television station signals and rules concerning obscenity and indecency consistent with section 614, 615, 616, 624(d)(2), 639, 640, and 641 of the Communications Act of 1934 (47 U.S.C. 534, 535, 536, 544(d)(2), 559, 560, and 561);

(B) make its facilities available for candidates for public office consistent with sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315); and

(C) allocate 4 percent of its capacity for services that promote the public interest, in addition to the capacity utilized to fulfill the obligations required of subparagraphs (A) and (B), such as—

(i) telemedicine;

(ii) educational programming, including distance learning;

(iii) high speed Internet access to unserved and underserved populations; and

(iv) specialized local data and video services intended to facilitate public participation in local government and community life.

(2) LICENSE BOUNDARIES.—In order to ensure compliance with paragraph (1), the Commission shall establish boundaries for licenses under this section that conform to existing television markets, as determined by the Commission for purposes of section 652(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)(i)).

(g) REDESIGNATION OF MULTICHANNEL VIDEO DISTRIBUTION AND DATA SERVICE.—The Commission shall redesignate the Multichannel Video Distribution and Data Service (MVDDS) as the Terrestrial Direct Broadcast Service (TDBS).

SA 4670. Mr. CONRAD (for himself, Mrs. HUTCHISON, Mr. HELMS, Mr. JOHNSON, Mr. GRASSLEY, Mr. BREAUX, and Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Insert after section 154, the following:

SEC. 155. NATIONAL EMERGENCY TELEMEDICAL COMMUNICATIONS.

(a) TELEHEALTH TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish a task force to be known as the ''National Emergency Telehealth Network Task Force'' (referred to in this subsection as the ''Task Force'') to advise the Secretary on the use of telehealth technologies to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies.

(2) FUNCTIONS.—The Task Force shall—

(A) conduct an inventory of existing telehealth initiatives, including—

(i) the specific location of network components;

(ii) the medical, technological, and communications capabilities of such components; and

(iii) the functionality of such components;

(B) make recommendations for use by the Secretary in establishing standards for regional interoperating and overlapping information and operational capability response grids in order to achieve coordinated capabilities based on responses among Federal, State, and local responders;

(C) recommend any changes necessary to integrate technology and clinical practices;

(D) recommend to the Secretary acceptable standard clinical information that could be uniformly applied and available throughout a national telemedical network and tested in the regional networks;

(E) research, develop, test, and evaluate administrative, physical, and technical guidelines for protecting the confidentiality, integrity, and availability of regional networks and all associated information and advise the Secretary on issues of patient data security, and compliance with all applicable regulations;

(F) in consultation and coordination with the regional telehealth networks established under subsection (b), test such networks for their ability to provide support for the existing and planned efforts of State and local law enforcement, fire departments, health care facilities, and Federal and State public health agencies to prepare for, monitor, respond rapidly to, or manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies with respect to each of the functions listed in subparagraphs (A) through (H) of subsection (b)(3); and

(G) facilitate the development of training programs for responders and a mechanism for training via enhanced advanced distributive learning.

(3) MEMBERSHIP.—The Task Force shall include representation from—

(A) relevant Federal agencies including the Centers for Disease Control and Prevention and the Telemedicine and Advanced Research Center of the Department of Army, Medical Research and Materiel Command;

(B) relevant State and local government agencies including public health officials;

(C) professional associations specializing in health care, veterinary medicine, and agrimedicine; and

(D) other relevant private sector organizations, including public health and national telehealth organizations and representatives of academic and corporate information management and information technology organizations.

(4) MEETINGS AND REPORTS.—

(A) MEETINGS.—The Task Force shall meet as the Secretary may direct.

(B) REPORT.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act the Task Force shall prepare and submit a report to Congress regarding the activities of the Task Force.

(ii) CONTENTS.—The report described in clause (i) shall recommend, based on the information obtained from the regional telehealth networks established under subsection (b), whether and how to build on existing telehealth networks to develop a National Emergency Telehealth Network.

(5) IMPLEMENTATION.—The Task Force may carry out activities under this subsection in cooperation with other entities, including national telehealth organizations.

(6) TERMINATION.—The Task Force shall terminate upon submission of the final report required under paragraph (4)(B).

(b) ESTABLISHMENT OF STATE AND REGIONAL TELEHEALTH NETWORKS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to award grants to 3 regional consortia of States to carry out pilot programs for the development of statewide and regional telehealth network testbeds that build on, enhance, and securely link existing State and local telehealth programs.

(B) DURATION.—The Secretary shall award grants under this subsection for a period not to exceed 3 years. Such grants may be renewed.

(C) STATE CONSORTIUM PLANS.—Each regional consortium of States desiring to receive a grant under subparagraph (A) shall submit to the Secretary a plan that describes how such consortium shall—

(i) interconnect existing telehealth systems in a functional and seamless fashion to enhance the ability of the States in the region to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies; and

(ii) link to other participating States in the region via a standard interoperable connection using standard information.

(D) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to regional consortia of States that demonstrate—

(i) the interest and participation of a broad cross section of relevant entities, including public health offices, emergency preparedness offices, and health care providers;

(ii) the ability to connect major population centers as well as isolated border, rural, and frontier communities within the region to provide medical, public health, and emergency services in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies;

(iii) an existing telehealth and telecommunications infrastructure that connects relevant State agencies, health care providers, universities, and relevant Federal agencies; and

(iv) the ability to quickly complete development of a region-wide interoperable emergency telemedical network to expand communications and service capabilities and facilitate coordination among multiple medical, public health, and emergency response agencies, and the ability to test recommendations of the task force established under subsection (a) within 3 years.

(2) REGIONAL NETWORKS.—A consortium of States awarded a grant under paragraph (1) shall develop a regional telehealth network that links established telehealth initiatives within the region to provide medical services in cooperation with and in support of, where relevant, the following:

(A) State and local public health departments.

(B) Private, public, community, and rural health clinics and Indian Health Service clinics.

(C) Hospitals, academic health centers, and medical centers of the Department of Defense and the Department of Veterans' Affairs.

(D) Veterinary clinics and hospitals.

(E) Agrimedicine centers.

(F) Offices of rural health.

(G) Federal agencies.

(H) Other relevant entities as determined appropriate by such consortium.

(3) FUNCTIONS OF THE NETWORKS.—Once established, a regional telehealth network

under this subsection shall test the feasibility of recommendations (including recommendations relating to standard clinical information, operational capability, and associated technology and information standards) described in subparagraphs (B) through (E) of subsection (a)(2), and provide reports to the task force established under subsection (a), on such network's ability, in preparation of and in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies, to support each of the following functions:

(A) Rapid emergency response and coordination.

(B) Real-time data collection for information dissemination.

(C) Environmental monitoring.

(D) Early identification and monitoring of biological, chemical, or nuclear exposures.

(E) Situationally relevant expert consultative services for patient care and front-line responders.

(F) Training of responders.

(G) Development of an advanced distributive learning network.

(H) Distance learning for the purposes of medical and clinical education, and simulation scenarios for ongoing training.

(4) REQUIREMENTS.—In awarding a grant under paragraph (1), the Secretary shall—

(A) require that each regional network adopt common administrative, physical, and technical approaches for seamless interoperability and to protect the network's confidentiality, integrity, and availability, taking into consideration guidelines developed by the task force established under subsection (a); and

(B) require that each regional network inventory and report to the task force established under subsection (a), the technology and technical infrastructure available to such network.

(c) FUNDING.—

(1) IN GENERAL.—Of the amount appropriated under section 199, the Secretary shall make available not to exceed $150,000,000 for the 3-fiscal year period beginning with fiscal year 2003 to carry out this section. Amounts made available under this paragraph shall remain available until expended.

(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available for each fiscal year under paragraph (1) shall be used for Task Force administrative costs.

SA 4671. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, line 4, after ''Carrying out all'' insert ''nonterrorism''.

On page 69, line 5, strike ''and response''.

On page 69, strike lines 8 through 22 and insert the following:

(2) Carrying out all terrorism and other hazard response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

On page 69, line 23, strike ''(5)'' and insert ''(3)''.

On page 70, line 6, strike ''(6)'' and insert ''(4)''.

On page 70, line 11, strike ''(7)'' and insert ''(5)''.

On page 70, line 16, strike ''(8)'' and insert ''(6)''.

On page 70, line 19, strike ''(9)'' and insert ''(7)''.

On page 70, line 22, strike ''(10)'' and insert ''(8)''.

On page 71, line 2, strike ''(5)'' and insert ''(6)''.

On page 71, line 3, strike ''(11)'' and insert ''(9)''.

On page 71, line 9, strike ''(6)'' and insert ''(7)''.

On page 71, line 10, strike ''(12)'' and insert ''(10)''.

On page 71, line 23, strike ''(13)'' and insert ''(11)''.

On page 72, strike lines 3 through 8.

On page 72, line 9, strike ''(15)'' and insert ''(12)''.

On page 72, line 19, after ''Department'' insert '', except that those elements of the Office of National Preparedness of the Federal Emergency Management Agency that relate to terrorism shall be transferred to the Office of Domestic Preparedness established under this section''.

On page 73, insert before line 1 the following:

(4) Those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

On page 73, line 1, strike ''(4)'' and insert ''(5)''.

On page 73, line 17, strike ''(5)'' and insert ''(6)''.

On page 73, line 23, strike ''(6)'' and insert ''(7)''.

On page 74 strike lines 7 through 19 and insert the following:

(d) OFFICE FOR DOMESTIC PREPAREDNESS.—

(1) ESTABLISHMENT.—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(2) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(3) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(A) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(B) in keeping with intelligence estimates, working to ensure adequate strategic and operational planning, equipment, training, and exercise activities at all levels of government;

(C) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(D) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(E) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(F) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(G) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States; and

(H) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(4) FISCAL YEARS 2003 AND 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(5) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

SA 4672. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On Page 76, insert in section 135(d) ''Definitions'' the following:

(8) MAJOR SYSTEM.—The term ''major system'' means a system for which the total expenditures are estimated to exceed the dollar threshold for a ''major systems'' established by Secretary pursuant to the Office of Management and Budget Circular A–109, entitled ''Major Systems Acquisition''.

(9) OPERATIONAL TEST AND EVALUATION.—The term ''operational test and evaluation'' means—

(A) the test, under realistic conditions, of any item of (or key component of) a technology, device, or equipment for the purpose of determining the effectiveness and suitability of the technology, device, or equipment by typical users to meet homeland security needs and objectives; and

(B) the evaluation of the results of such test.

On page 85, in section 135, after the subsection entitled ''(3) RESEARCH AND DEVELOPMENT RELATED AUTHORITIES'' add a subsection (4) as follows—

''(40) OPERATIONAL TEST AND EVALUATION AUTHORITIES.—The Under Secretary, by authority of the Secretary, shall exercise the following authorities relating to the testing and evaluation activities within the Department—

(A) serve as principal independent advisor to the Secretary on operational test and evaluation activities in the Department and the principal test and evaluation official of the Department;

(B) prescribe, by authority of the Secretary, policies and procedures for the conduct of operation test and evaluation;

(C) monitor and review all operational test and evaluation in the Department;

(D) coordinate operational test and evaluation conducted jointly by more than one Under Secretary;

(E) review and make recommendations to the Secretary on all budgetary and financial matters relating to operational test and evaluation, including operational test facilities, test ranges and test beds in the Department;

(F) require prompt reporting of all operational test and evaluation activities conducted by officials of the Department;

(G) have access to all records and data in the Department necessary to carry out the duties of this subsection;

(H) provide the Congress no later than February 15 of each calendar year, a report on all operational test and evaluation activities conducted within the Department for prior fiscal year, describing—

i. the mission of the each major system,

ii. background technical and programmatic information on the major system,

iii. test and evaluation activity conducted during the prior fiscal year on the major system,

iv. the assessment of major system test results relative to its operational requirements,

v. such other matters that relate to the overall health of the testing and evaluation infrastructure of the Department.

(I) Two years after the date of enactment of this Act, the Comptroller General shall report to Congress on the efforts by the Department in implementing the authorities for operational test and evaluation and give suggestions for improvement.''

Technical Corrections as follows:

1. On page 91, line 9, replace ''(h) OFFICE FOR TECHNOLOGY EVALUATION AND TRANSITION'' with ''(h) OFFICE FOR TESTING, EVALUATION AND TRANSITION'',

2. On Page 91, lines 14–15, replace ''OFFICE FOR TECHNOLOGY EVALUATION AND TRANSITION'' with ''OFFICE FOR TESTING, EVALUATION AND TRANSITION'',

3. On Page 91, line 17 add ''(A) carry out authorities of the Under Secretary with respect to operational test and evaluation,'' and redesignate the following subparagraphs as (B) through (G),

4. On Page 92, line 11, strike ''The functions'' and replace with ''Except for the function paragraph (2)(A), the functions''.

SA 4673. Mr. REID (for Mr. BYRD) proposed an amendment to amendment SA 4644 proposed by Mr. BYRD to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 100. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) AGENCY.—Except for purposes of subtitle 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

(B) does not include the General Accounting Office.

(2) ASSETS.—The term ''assets'' includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security established under title I.

(4) ENTERPRISE ARCHITECTURE.—The term ''enterprise architecture''—

(A) means—

(i) a strategic information asset base, which defines the mission;

(ii) the information necessary to perform the mission;

(iii) the technologies necessary to perform the mission; and

(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan.

(5) FUNCTIONS.—The term ''functions'' includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(6) HOMELAND.—The term ''homeland'' means the United States, in a geographic sense.

(7) HOMELAND SECURITY.—The term ''homeland security'' means a concerted national effort to—

(A) prevent terrorist attacks within the United States;

(B) reduce America's vulnerability to terrorism; and

(C) minimize the damage and recover from terrorist attacks that do occur.

(8) 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).

(9) 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.

(10) PERSONNEL.—The term ''personnel'' means officers and employees.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(12) UNITED STATES.—The term ''United States'', when used in a geographic sense, means any State (within the meaning of section 102(4) 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 National Homeland Security.

(b) EXECUTIVE DEPARTMENT.—Section 101 of title 5, United States Code, is amended by adding at the end the following:

''The Department of Homeland Security.''.

(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;

(C) reduce 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. This 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. All authorities, functions, and responsibilities transferred to the Department shall be vested in the Secretary.

(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 a comprehensive strategy for combating terrorism and the homeland security response.

(4) To make budget recommendations relating to the border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion 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 supporting 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 promote key scientific and technological advances that will enhance homeland security.

(9) To include, as appropriate, State and local governments and other 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, to ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities; and

(D) systematically identifying and removing obstacles to developing effective partnerships between the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities,

the private sector, other entities, and the public to secure the homeland.

(10)(A) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to homeland security.

(B) To consult and coordinate with the Secretary of Defense regarding the training of personnel to respond to terrorist attacks involving chemical or biological agents.

(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 public threat advisories, and (in coordination with other agencies) providing specific 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 support 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) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) To report to Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 182; and

(B) each biennial report required under section 192(b).

(c) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

''(5) the Secretary of Homeland Security; and

''(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.''.

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 report to the Secretary, who may assign to the Under Secretary such functions related to the management and administration of the Department as the Secretary may prescribe, including—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 105. ASSISTANT SECRETARIES.

(a) IN GENERAL.—There shall be in the Department not more than 5 Assistant Secretaries (not including the 2 Assistant Secretaries appointed under division B), each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall describe the general responsibilities that such appointee will exercise upon taking office.

(2) ASSIGNMENT.—Subject to paragraph (1), the Secretary shall assign to each Assistant Secretary such functions as the Secretary considers appropriate.

SEC. 106. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting ''Homeland Security,'' after ''Health and Human Services,''; and

(2) in paragraph (2), by inserting ''Homeland Security,'' after ''Health and Human Services,''.

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

''SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the ''Inspector General'') shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the ''Secretary'') with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

''(A) intelligence or counterintelligence matters;

''(B) ongoing criminal investigations or proceedings;

''(C) undercover operations;

''(D) the identity of confidential sources, including protected witnesses;

''(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

''(i) section 3056 of title 18, United States Code;

''(ii) section 202 of title 3, United States Code; or

''(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

''(F) other matters the disclosure of which would constitute a serious threat to national security.

''(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

''(A) prevent the disclosure of any information described under paragraph (1);

''(B) preserve the national security; or

''(C) prevent significant impairment to the national interests of the United States.

''(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

''(A) the President of the Senate;

''(B) the Speaker of the House of Representatives;

''(C) the Committee on Governmental Affairs of the Senate;

''(D) the Committee on Government Reform of the House of Representatives; and

''(E) other appropriate committees or subcommittees of Congress.

''(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in

any subdivision of the Department of Homeland Security.

''(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

''(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

''(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

''(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

''(1) the President of the Senate;

''(2) the Speaker of the House of Representatives;

''(3) the Committee on Governmental Affairs of the Senate; and

''(4) the Committee on Government Reform of the House of Representatives.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking ''8F'' each place it appears and inserting ''8G''; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking ''or 8H'' and inserting '', 8H, or 8I''.''

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(b) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

''(G) The Department of Homeland Security.''.

SEC. 108. CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Information Officer, who shall be designated in the manner prescribed under section 3506(a)(2)(A) of title 44, United States Code.

(b) RESPONSIBILITIES.—The Chief Information Officer shall assist the Secretary with Department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

SEC. 109. GENERAL COUNSEL.

(a) IN GENERAL.—There shall be in the Department 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) serve as the chief legal officer of the Department;

(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) ensuring 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 officers of the Department in ensuring that the workforce of the Department has the necessary skills and training, and that the recruitment and retention policies of the Department allow the Department to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the Department to achieve its missions;

(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; and

(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 within the Office of the Secretary, 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 exchange shall include—

(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 demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

SEC. 114. EXECUTIVE SCHEDULE POSITIONS.

(a) EXECUTIVE SCHEDULE LEVEL I POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

''Secretary of Homeland Security.''.

(b) EXECUTIVE SCHEDULE LEVEL II POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Secretary of Homeland Security.''.

(c) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary for Management, Department of Homeland Security.''.

(d) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Secretaries of Homeland Security (5).

''Inspector General, Department of Homeland Security.

''Chief Financial Officer, Department of Homeland Security.

''Chief Information Officer, Department of Homeland Security.

''General Counsel, Department of Homeland Security.''.

Subtitle B—Establishment of Directorates and Offices

SEC. 131. DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Border and Transportation Protection.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Border and Transportation, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) EXERCISE OF CUSTOMS REVENUE AUTHORITY.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—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 this 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 45 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 of proposed 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:

(A) The Tariff Act of 1930 (19 U.S.C. 1304 et seq.).

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(J) The Trade Agreements Act of 1979 (19 U.S.C. 2502 et seq.).

(K) The North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 et seq.).

(L) The Uruguay Round Agreements Act (19 U.S.C. 3501 et seq.).

(M) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

(N) The Andean Trade Preference Act (19 U.S.C. 3201 et seq.).

(O) The African Growth and Opportunity Act (19 U.S.C. 3701 et seq.).

(P) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) DEFINITION OF CUSTOMS REVENUE FUNCTIONS.—In this subsection, 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, and providing Customs Recordations for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

(d) 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) Marine 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) MAINTENANCE OF STATUS 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 specified in subsequent Acts.

(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 of 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 state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot 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 that shall assess thoroughly 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 Reform 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. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—There is established within the Department a Directorate 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 for the purpose of supporting the mission of the Department.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 133. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(b) 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.

SEC. 134. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(b) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.

(a) ESTABLISHMENT.—There is established within the Department a Directorate of Science and Technology.

(b) 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. The principal responsibility of the Under Secretary shall be to effectively and efficiently carry out the purposes of the Directorate of Science and Technology.

SEC. 136. DIRECTORATE OF IMMIGRATION AFFAIRS.

The Directorate of Immigration Affairs shall be established and shall carry out all functions 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 the Office 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 to assist the development of the national strategy for combating terrorism and other homeland security activities.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) CHIEF HOMELAND SECURITY LIAISON OFFICER.—

(A) APPOINTMENT.—The Secretary shall appoint a Chief Homeland Security Liaison Officer to coordinate the activities of the Homeland Security Liaison Officers, designated under paragraph (2).

(B) ANNUAL REPORT.—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 or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(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 Department priorities within each State and between the States.

(2) HOMELAND SECURITY LIAISON OFFICERS.—

(A) DESIGNATION.—The Secretary shall designate in each State not less than 1 employee of the Department to—

(i) serve as the Homeland Security Liaison Officer in that State; and

(ii) provide coordination 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 or 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;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) 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 a 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;

(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. 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 frequently 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 in 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. 139. LEGISLATIVE PROPOSALS AND SUPPORTING AND ENABLING LEGISLATION.

(a) DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.—Not earlier than February 3, 2003, the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Border and Transportation Protection; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Border and Transportation Protection, to provide for homeland security.

(b) DIRECTORATE OF INTELLIGENCE AND DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.—Not earlier than 120 days after the submission of the proposals and recommendations under subsection (a), the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Intelligence and the Directorate of Critical Infrastructure Protection; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Intelligence and the Directorate of Critical Infrastructure Protection, to provide for homeland security.

(c) DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE AND DIRECTORATE OF SCIENCE AND TECHNOLOGY.—Not earlier than 120 days after the submission of the proposals and recommendations under subsection (b), the Secretary shall submit to Congress—

(1) any legislative proposals necessary to further the objectives of this title relating to the Directorate of Emergency Preparedness and Response and the Directorate of Science and Technology; and

(2) recommendations for supporting and enabling legislation, including the transfer of authorities, functions, personnel, assets, agencies, or entities to the Directorate of Emergency Preparedness and Response and the Directorate of Science and Technology, to provide for homeland security.

(d) SAVINGS AND ADMINISTRATIVE PROVISIONS OF SUPPORTING AND ENABLING LEGISLATION.—Sections 183, 184, and 194 shall apply to any supporting and enabling legislation described under subsection (a), (b), or (c) enacted after the date of enactment of this Act.

(e) DEADLINE FOR CONGRESSIONAL ACTION.—Not later than 13 months after the date of enactment of this Act, the Congress shall complete action on all supporting and enabling legislation described under subsection (a), (b), or (c).

SEC. 140. EXECUTIVE SCHEDULE POSITIONS.

Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary for Border and Transportation, 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 task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to homeland security.

(c) DUTIES.—

(1) DISSEMINATION OF INFORMATION.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) CENTER.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a 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 heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) BEST PRACTICES INFORMATION.—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 private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness.

(b) 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 and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) FEDERAL SHARE.—The Federal share of the cost described in subsection (a) shall be 50 percent, up to a maximum of $250,000 per grant recipient.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) NATIONAL WEEK.—

(1) DESIGNATION.—Each week that includes September 11 is ''National Emergency Preparedness Week''.

(2) 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.

(b) FEDERAL AGENCY ACTIVITIES.—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

Subtitle D—Miscellaneous Provisions

SEC. 161. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

(a) ESTABLISHMENT.—There is established within the Department of Defense a National Bio-Weapons Defense Analysis Center (in this section referred to as the ''Center'').

(b) 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 1403 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—

(1) 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

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness 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) CONTENTS.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section 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 and recommendations of the Department to further protect the food supply from contamination.

SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN AGENCIES AND 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 cooperatively can learn from one another and resolve complex issues;

(3) Federal, State, and local employees have specialized knowledge that should be consistently shared between and among agencies at all levels of government; 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.

(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. 164. WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 620; 49 U.S.C. 44935 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 44935 of title 49, United States Code; or

''(ii) an applicant for the position of a security screener under that subsection.

''(B) IN GENERAL.—Notwithstanding paragraph (1)—

''(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

''(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

''(C) COVERED POSITION.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.''.

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'' and inserting the following:

''(a) DISCRIMINATION AGAINST EMPLOYEES.—

''(1) IN GENERAL.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:

''(2) APPLICABLE EMPLOYERS.—Paragraph (1) shall apply to—

''(A) an air carrier or contractor or subcontractor of an air carrier;

''(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

''(C) an employer of private screening personnel described in section 44919 or 44920 of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking ''paragraphs (1) through (4) of subsection (a)'' and inserting ''subparagraphs (A) through (D) of subsection (a)(1)''; and

(2) in clause (iii), by striking ''paragraphs (1) through (4) of subsection (a)'' and inserting ''subparagraphs (A) through (D) of subsection (a)(1)''.

SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472–4) 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 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.

''(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

''(3) RESPONSIBILITIES.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

''(A) The Bioterrorism Preparedness and Response Program.

''(B) The Strategic National Stockpile.

''(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

''(4) DIRECTOR.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

''(5) STAFFING.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

''(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

''(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.''.

SEC. 167. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Secretary under section 102(b)(14) 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) 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 under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), 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 returning 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.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

''(c) PERSONNEL GRANTS.—

''(1) EXCLUSION.—Grants awarded under subsection (b) to hire 'employees engaged in fire protection', as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203), shall not be subject to paragraphs (10) or (11) of subsection (b).

''(2) DURATION.—Grants awarded under paragraph (1) shall be for a 3-year period.

''(3) MAXIMUM AMOUNT.—The total amount of grants awarded under paragraph (1) shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

''(4) FEDERAL SHARE.—

''(A) IN GENERAL.—Notwithstanding subsection (b)(6), the Federal share of a grant under paragraph (1) shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

''(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

''(5) APPLICATION.—In addition to the information under subsection (b)(5), an application for a grant under paragraph (1), shall include—

''(A) an explanation for the need for Federal assistance; and

''(B) specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

''(6) MAINTENANCE OF EFFORT.—Grants awarded under paragraph (1) shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources.''; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

''(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).''.

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS.—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;

(2) review all available information on vulnerabilities at aviation, seaport, rail and transit facilities; and

(3) review the steps taken by agencies since September 11, 2001, to improve aviation, seaport, rail, and transit security to determine their effectiveness at protecting passengers and transportation infrastructure from terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress and the Secretary a comprehensive report containing—

(1) the findings and conclusions from the reviews conducted under subsection (a); and

(2) proposed steps to improve any deficiencies found in aviation, seaport, rail, and transit security including, to the extent possible, the cost of implementing the steps.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section 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) recommendations of 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—

(1) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(2) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(b) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan referred to in subsection (a).

(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).

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (a)(1).

(e) CONTENT.—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.

(f) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under subsection (a), as necessary.

(g) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(h) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(i) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the duties of the Director under this section.

SEC. 172. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including

by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

(e) EFFECTIVE DATE.—This section shall take effect 1 day after the date of enactment of this Act.

SEC. 173. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''March 31, 2004''.

Subtitle E—Transition Provisions

SEC. 181. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term ''agency'' includes any entity, organizational unit, or function transferred or to be transferred under this title.

(2) TRANSITION PERIOD.—The term ''transition period'' means the 1-year period beginning on the effective date of this division.

SEC. 182. 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 and XI, including fulfillment of the functions transferred under this Act, and shall include all of the information specified under paragraph (2) that the Secretary has gathered as of the date of submission. Information contained in an earlier report may be referenced, rather than set out in full, in a subsequent report. The final implementation progress report shall include any required information not yet provided.

(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 transition;

(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 executives;

(v) the location of Department headquarters, including a timeframe for relocating to the new location, an estimate of cost for the relocation, 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 any gaps, and to plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department;

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(iii) plans or progress reports on the utilization by the Department of existing personnel flexibility, provided by law or through regulations of the President and the Office of Personnel Management, to achieve the human capital needs of the Department;

(iv) any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation under this division of functions, entities, and personnel previously covered by disparate personnel systems; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibility;

(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; and

(iv) recommendations of any entities, organizational units, or functions not related to homeland security transferred to the Department that need to be transferred from the Department or terminated for the Department to function effectively.

(d) LEGISLATIVE RECOMMENDATIONS.—

(1) INCLUSION IN REPORT.—The Secretary, after consultation with the appropriate committees of Congress, shall include in the report under this section, recommendations for legislation that the Secretary determines is necessary to—

(A) facilitate the integration of transferred entities, organizational units, and functions into the Department;

(B) reorganize agencies, executive positions, and the assignment of functions within the Department;

(C) address any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation of agencies, functions, and personnel previously covered by disparate personnel systems;

(D) enable the Secretary to engage in procurement essential to the mission of the Department;

(E) otherwise help further the mission of the Department; and

(F) make technical and conforming amendments to existing law to reflect the changes made by titles I and XI.

(2) SEPARATE SUBMISSION OF PROPOSED LEGISLATION.—The Secretary may submit the proposed legislation under paragraph (1) to Congress before submitting the balance of the report under this section.

SEC. 183. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time this division takes effect, or were final before the effective date of this division and are to become effective on or after the effective date of this division,

shall, to the extent related to such functions, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary or other authorized official, or a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings

and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(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) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual in the official capacity of such 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 relating to a function transferred under this title may be continued by the Department with the same effect as if this title had not been enacted.

(f) EMPLOYMENT AND PERSONNEL.—

(1) EMPLOYEE RIGHTS.—

(A) TRANSFERRED AGENCIES.—The Department, or a subdivision of the Department, that includes an entity or organizational unit, or subdivision thereof, transferred under this Act, or performs functions transferred under this Act shall not be excluded from coverage of chapter 71 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.

(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 subsection (b)(6) of that section unless—

(i) the primary job duty of the employee is materially changed after the transfer; and

(ii) the primary job duty of the employee after such change consists of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism, if it is clearly demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(C) TRANSFERRED FUNCTIONS.—An employee of the Department who is primarily engaged in carrying out a function transferred to the Department under this Act or a function substantially similar to a function so transferred shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless the function prior to the transfer was performed by an employee excluded from a unit under that section.

(D) OTHER AGENCIES, EMPLOYEES, AND FUNCTIONS.—

(i) EXCLUSION OF SUBDIVISION.—Subject to paragraph (A), a subdivision of the Department shall not be excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title unless—

(I) the subdivision has, as a primary function, intelligence, counterintelligence, or investigative duties directly related to terrorism investigation; and

(II) the provisions of that chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(ii) EXCLUSION OF EMPLOYEE.—Subject to subparagraphs (B) and (C), an employee of the Department shall not be excluded from a unit under section 7112(b)(6) of title 5, United States Code, unless the primary job duty of the employee consists of intelligence, counterintelligence, or investigative duties directly related to terrorism investigation, if it is clearly demonstrated that membership in a unit and coverage under chapter 71 of title 5, United States Code, cannot be applied in a manner that would not have a substantial adverse effect on national security.

(E) PRIOR EXCLUSION.—Subparagraphs (A) through (D) shall not apply to any entity or organizational unit, or subdivision thereof, transferred to the Department under this Act that, on July 19, 2002, was excluded from coverage under chapter 71 of title 5, United States Code, under section 7103(b)(1) of that title.

(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.

(3) 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 to the Department 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 to apply with respect to any appointment to the position made after such transfer to the Department has occurred.

(4) 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.

(g) NO EFFECT ON INTELLIGENCE AUTHORITIES.—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 the National Security Act of 1947, 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. 184. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY 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, use, 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.

(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 the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; 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 transferred to, or otherwise made available to, the Department may be used during the transition period for purposes in addition to those for which they were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations 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 may not be accepted, used, or 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 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004.

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; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) OFFICERS.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) INTERUNIT DELEGATION.—Any function assigned by this title 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 and XI. Not later than 15 months after the effective date of this division, and every year thereafter for the succeeding 5 years, the Comptroller General shall submit a report to Congress containing—

(1) an evaluation of the implementation progress reports submitted to Congress and the Comptroller General by the Secretary under section 182;

(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

(3) any recommendations for legislation or administrative action the Comptroller General considers appropriate.

(b) BIENNIAL 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) POINT OF ENTRY 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) RESULTS-BASED MANAGEMENT.—

(1) STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than September 30, 2003, consistent with the requirements of section 306 of title 5, 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; REVISIONS.—The strategic plan shall cover a period of not less than 5 years from the fiscal year in which it is submitted and it shall be updated and revised at least every 3 years.

(C) CONTENTS.—The strategic plan shall describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(2) PERFORMANCE PLAN.—

(A) IN GENERAL.—In accordance with 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 the goals; and

(iii) the means used to verify and validate measured values.

(C) SCOPE.—The performance plan should describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(3) PERFORMANCE REPORT.—

(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 received under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a et seq.).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (48 Stat. 948, chapter 482; 40 U.S.C. 276c).

SEC. 195. PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the head of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organizational structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each Under Secretary shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SEC. 196. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, and each budget request submitted to Congress for the National Terrorism Prevention and Response Program shall be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and the fiscal year 2005 budget request for the National Terrorism Prevention and Response Program, and for any subsequent fiscal year.

SEC. 197. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term ''critical infrastructure'' has the meaning given that term in section 1016(e) of the USA PATRIOT ACT of 2001 (42 U.S.C. 5195(e)).

(2) FURNISHED VOLUNTARILY.—

(A) DEFINITION.—The term ''furnished voluntarily'' means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) BENEFIT.—In this paragraph, the term ''benefit'' does not include any warning, alert, or other risk analysis by the Department.

(b) IN GENERAL.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) RECORDS SHARED WITH OTHER AGENCIES.—

(1) IN GENERAL.—

(A) RESPONSE TO REQUEST.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SEGREGABLE PORTION OF RECORD.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED RECORDS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of

whether or not the Department has a similar or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNATION.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 198. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to—

(1) enable the Secretary to administer and manage the Department; and

(2) carry out the functions of the Department other than those transferred to the Department under this Act.

SA 4674. 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; as follows:

Strike all after the first word and insert the following:

The Security is responsible for ensuring that Federal, State, and local entities share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SA 4675. 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; as follows:

Strike all after the first word and insert the following:

''SENSE OF CONGRESS.—It is the sense of Congress that the Department of Homeland Security shall comply with all laws protecting the civil rights and civil liberties of United States persons.''.

SA 4676. 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; as follows:

Strike all after the first word and insert the following: ''The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.''.

SA 4677. 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; as follows:

Strike all after the first word and insert the following: ''It is the sense of Congress that the Department of Homeland Security shall comply with all laws protecting the privacy of United States persons.''.

SA 4678. Mrs. FEINSTEIN (for herself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, between lines 9 and 10, insert the following:

SEC. 512. AIRPORT SECURITY SCREENER STANDARDS AND TRAINING.

(a) IN GENERAL.—Section 44935(e)(2) of title 49, United States Code, is amended—

(1) by striking ''States;'' in subparagraph (A)(ii) and inserting ''States or described in subparagraph (C);'';

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

''(C) OTHER INDIVIDUALS.—An individual is described in this subparagraph if that individual—

''(i) is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)));

''(ii) was born in a territory of the United States;

''(iii) was honorably discharged from service in the Armed Forces of the United States; or

''(iv) is an alien lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act and was employed to perform security screening services at an airport in the United States on the date of enactment of the Aviation and Transportation Security Act (Public Law 107–71).''.

(b) CORRECTION OF SUBSECTION DESIGNATION.—Subsection (i) of section 44935 of title 49, United States Code, relating to accessibility of computer-based training facilities, is redesignated as subsection (k).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Wednesday, September 18, 2002, at 9:30 a.m. in SD–366. The purpose of the hearing is to receive testimony on the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy; and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 18, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on H.R. 2880, a bill to amend laws relating to the lands of the enrollees and lineal descendants of enrollees whose names appear on the final Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, and for other purposes.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Judicial Nominations'' on Wednesday, September 18, 2002 in Dirksen Room 226 at 10:00 a.m.

Panel I: The Honorable Joseph R. Biden, Jr.; The Honorable Orrin Hatch; The Honorable Phil Gramm; The Honorable Robert Bennett; The Honorable Kay Bailey Hutchison; The Honorable Fred Thompson; The Honorable William Frist; The Honorable Thomas Carper; and The Honorable Jon Corzine.

Panel II: Michael W. McConnell to be a United States Circuit Court Judge for the Tenth Circuit.

Panel III: Kent A. Jordan to be United States District Court Judge for the District of Delaware; Alia Moses Ludlum to be United States District Court Judge for the Western District of Texas; William J. Martini to be United States District Court Judge for the District of New Jersey; Thomas W. Phillips to be United States District Court Judge for the Eastern District of Tennessee; and Jeffrey S. White to be United States District Court Judge for the Northern District of California.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 18, 2002 at 10:00 a.m. and 2:30 p.m. to held a joint open hearing with the House Permanent Select Committee on Intelligence regarding the Joint Inquiry into the events of September 11, 2001.

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

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, September 18, 2002, at 2:30 p.m., to conduct an oversight hearing on ''Transit Security: One Year Later.''

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to executive session to consider Executive Calendar No. 1009 through No. 1030 and all nominations on the Secretary's desk, the nominations be confirmed, the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action; that any statements appear at the appropriate place in the RECORD; and that the Senate then return to legislative session, with the preceding all occurring without any intervening action or debate.

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

The nominations were considered and confirmed, as follows:

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., sections 8036 and 601:

To be lieutenant general

Maj. Gen. George P. Taylor, Jr., 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Mark R. Zamzow, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Peter U. Sutton, 0000

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:

To be lieutenant general

Lt. Gen. Norton A. Schwartz, 0000

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:

To be lieutenant general

Lt. Gen. Ronald E. Keys, 0000

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:

To be lieutenant general

Maj. Gen. Carrol H. Chandler, 0000

ARMY

The following named officer for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Colonel James A. Hasbargen, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Charles C. Campbell, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Clinton T. Anderson, 0000
Col. Michael D. Barbero, 0000
Col. Vincent K. Brooks, 0000
Col. Salvatore F. Cambria, 0000
Col. Samuel M. Cannon, 0000
Col. James A. Cerrone, 0000
Col. Robert W. Cone, 0000
Col. Robert Crear, 0000
Col. John M. Custer, III, 0000
Col. David P. Fridovich, 0000
Col. Russell L. Frutiger, 0000
Col. William T. Grisoli, 0000
Col. Carter F. Ham, 0000
Col. Jeffery W. Hammond, 0000
Col. Thomas M. Jordan, 0000
Col. Francis H. Kearney, III, 0000
Col. Daniel J. Keefe, 0000
Col. Stephen R. Layfield, 0000
Col. John A. MacDonald, 0000
Col. Richard L. McCabe, 0000
Col. William H. McCoy, Jr., 0000
Col. Marvin K. McNamara, 0000
Col. John W. Morgan, III, 0000
Col. Stephen D. Mundt, 0000
Col. Michael L. Oates, 0000
Col. Mark E. ONeill, 0000
Col. Joseph E. Orr, 0000
Col. Robert M. Radin, 0000
Col. Jose D. Riojas, 0000
Col. Curtis M. Scaparrotti, 0000
Col. Mark E. Scheid, 0000
Col. James H. Schwitters, 0000
Col. John F. Shortal, 0000
Col. Joseph A Smith, 0000
Col. Merdith w. Temple, 0000
Col. Louis W. Weber, 0000
Col. Scott G. West, 0000

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Timothy M. Haake, 0000

MARINE CORPS

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. George J. Flynn, 0000
Col. John F. Kelly, 0000
Col. MaryAnn Krusadossin, 0000
Col. Frank A. Panter, Jr., 0000
Col. Charles S. Patton, 0000
Col. Mastin M. Robeson, 0000
Col. Terry G. Robling, 0000
Col. Richard T. Tryon, 0000

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Emerson N. Gardner, Jr., 0000
Brig. Gen. Richard A. Huck, 0000
Brig. Gen. Stephen T. Johnson, 0000
Brig. Gen. Bradley M. Lott, 0000
Brig. Gen. Keith J. Stalder, 0000
Brig. Gen. Joseph F. Weber, 0000

NAVY

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (1h) Duret S. Smith, 0000
Rear Adm. (1h) Jerry D. West, 0000

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (1h) Robert M. Clark, 0000
Rear Adm. (1h) John R. Hines, Jr., 0000
Rear Adm. (1h) Noel G. Preston, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (1h) Linda J. Bird, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (1h) Richard E. Brooks, 0000
Rear Adm. (1h) Evan M. Chanik, Jr., 0000
Rear Adm. (1h) Barry M. Costello, 0000
Rear Adm. (1h) Kirkland H. Donald, 0000
Rear Adm. (1h) Mark J. Edwards, 0000
Rear Adm. (1h) Joseph E. Enright, 0000
Read Adm. (1h) James B. Godwin, III, 0000
Rear Adm. (1h) John M. Kelly, 0000
Rear Adm. (1h) Michael G. Mathis, 0000
Rear Adm. (1h) George E. Mayer, 0000
Rear Adm. (1h) John G. Morgan, Jr., 0000
Rear Adm. (1h) Eric T. Olson, 0000
Rear Adm. (1h) Ann E. Rondeau, 0000
Rear Adm. (1h) Frederic R. Ruehe, 0000
Rear Adm. (1h) John D. Stufflebeem, 0000
Rear Adm. (1h) William D. Sullivan, 0000
Rear Adm. (1h) Gerald L. Talbot, Jr., 0000
Rear Adm. (1h) Hamlin B. Tallent, 0000
Rear Adm. (1h) James M. Zortman, 0000

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. William D. Masters, Jr., 0000

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. David L. Maserang, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Mark D. Harnitchek, 0000
Capt. Michael S. Roesner, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Captain Robert J. Cox, 0000
Captain Derwood C. Curtis, 0000
Captain Peter H. Daly, 0000
Captain Kenneth W. Deutsch, 0000
Captain Mark T. Emerson, 0000
Captain Jeffrey L. Fowler, 0000
Captain John S. Godlewski, 0000
Captain Garry E. Hall, 0000
Captain Leendert R. Hering, 0000
Captain Alan B. Hicks, 0000
Captain Deborah A. Loewer, 0000
Captain Carl V. Mauney, 0000
Captain William J. McCarthy, 0000
Captain Bernard J. McCullough, III, 0000
Captain Michael H. Miller, 0000
Captain Allen G. Myers, 0000
Captain Marc L. Purcell, 0000
Captain James W. Stevenson, Jr., 0000
Captain William G. Timme, 0000
Captain Joseph A. Walsh, 0000
Captain Melvin Williams, Jr., 0000
Captain James A. Winnefeld, Jr., 0000

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:

To be vice admiral

Rear Adm. Kevin P. Green, 0000

The following named officer for appointment as Deputy Judge Advocate General of the United States Navy in the grade indicated under title 10, U.S.C., section 5149:

To be rear admiral

Capt. James E. McPherson, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN1461 Air Force nominations (67) beginning JOSEPH J. BALAS, and ending MARK C. WROBEL, which nominations were received by the Senate and appeared in the Congressional Record of February 27, 2002

PN1497 Air Force nominations (14) beginning MARY S. ARMOUR, and ending SHARON B. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of March 6, 2002

PN1498 Air Force nominations (16) beginning KEVIN D. BARON, and ending BRIAN J. WELSH, which nominations were received by the Senate and appeared in the Congressional Record of March 6, 2002

PN2032 Air Force nominations (37) beginning SUSAN S. BAKER, and ending GILMER G. WESTON, III, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2002

PN2051 Air Force nominations (134) beginning DEBRA A. * ADAMS, and ending JULIE F. * ZWIES, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 2002

PN2052 Air Force nominations (100) beginning NICOLA S. * ADAMS, and ending TAMBRA L. * YATES, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 2002

PN2103 Air Force nominations (2) beginning DONALD C. ALFANO, and ending DANIEL M. FLEMING, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 2002

PN2104 Air Force nominations (8) beginning ROBERT W. BISHOP, and ending STEVEN K. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 2002

PN2105 Air Force nominations (4) beginning MATHEW J. BRAKORA, and ending STEPHEN D. WINEGARDNER, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 2002

PN2106 Air Force nominations (3) beginning TIMOTHY P. DESTIGTER, and ending SHELDON R. OMI, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 2002

PN2107 Air Force nomination of WILLIAM R. CHARBONNEAU, which was received by the Senate and appeared in the Congressional Record of September 3, 2002

PN2108 Air Force nominations (2) beginning MARGARET H. BAIR, and ending PAUL E. MAGUIRE, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 2002

PN2132 Air Force nominations (67) beginning JAMES P. ACLY, and ending JAMES R. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2002

ARMY

PN2035 Army nominations (21) beginning RALF C BEILHARDT, and ending RICHARD L WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2002

PN2036 Army nominations (292) beginning MICHAEL P ABEL, and ending WESLEY G ZEGER, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2002

PN2053 Army nomination of Kenneth S. Azarow, which was received by the Senate and appeared in the Congressional Record of July 31, 2002

PN2054 Army nominations (45) beginning *Oscar T. Arauco, and ending *John C. Wheatley, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 2002.

PN2080 Army nomination of Richard A. Redd, which was received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2081 Army nomination of Mary C. Casey, which was received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2082 Army nominations (93) beginning David P. Acevedo, and ending Edward W. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2083 Army nominations (118) beginning Joseph M. Adams, and ending James A. Worm, which nominations were received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2084 Army nominations (159) beginning Kim J. Anglesey, and ending Robert J. Zoppa, which nominations were received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2085 Army nominations (850) beginning Anthony J. Abati, and ending X167, which nominations were received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2109 Army nominations (2) beginning beginning William C. Devires, and ending Peter P. McKeown, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 2002.

MARINE CORPS

PN1666 Marine Corps nominations (2) beginning A.D. King, Jr., and ending Richard A. Ratliff, which nominations were received by the Senate and appeared in the Congressional Record of April 16, 2002.

PN1669 Marine Corps nomination of Mark A. Knowles, which was received by the Senate and appeared in the Congressional Record of April 16, 2002.

PN1740 Marine Corps nomination of Gerald M. Foreman, II, which was received by the Senate and appeared in the Congressional Record of May 8, 2002.

PN2086 Marine Corps nomination of Leon M. Dudenhefer, which was received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2110 Marine Corps nomination of Samuel B. Grove, which was received by the Senate and appeared in the Congressional Record of September 3, 2002.

NAVY

PN2043 Navy nominations (34) beginning Vanessa P. Ambers, and ending Douglas M. Zander, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2002.

PN2044 Navy nominations (1012) beginning Amado F. Abaya, and ending Mark T. Zwolski, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2002.

PN2055 Navy nomination of Paul T. Camardella, which was received by the Senate and appeared in the Congressional Record of July 31, 2002.

PN2087 Navy nomination of Bradley J. Smith, which was received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2088 Navy nomination of Theresa M. Everette, which was received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2089 Navy nomination of Anthony D. Weber, which was received by the Senate and appeared in the Congressional Record of August 1, 2002.

PN2133 Navy nominations (338) beginning Guerry H Hagins, and ending Matthew A Wright, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2002.

PN2134 Navy nominations (15) beginning Scott A Anderson, and ending Gwendolyn Willis, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2002.

PN2135 Navy nominations (22) beginning Douglas P Barber, Jr, and ending Douglas R Velvel, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2002.

PN2136 Navy nominations (348) beginning Phillip M Adriano, and ending Neil A Zlatniski, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2002.

PN2137 Navy nominations (93) beginning Kristin Acquavella, and ending William B. Zabicki, Jr, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2002.

PN2138 Navy nominations (81) beginning Sue A. Adamson, and ending George A. Zangaro, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2002.

PN2139 Navy nominations (48) beginning Christopher G Adams, and ending Ra Yoeun, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2002.

PN1914–1 Navy nominations (241) beginning Rufus S Abernethy, III, and ending Joan M Zitterkopf, which nominations were received by the Senate and appeared in the Congressional Record of June 26, 2002.

PN1840–1 Navy nominations (16) beginning Michael L Blount, and ending Robert P Walden, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2002.

LEGISLATIVE SESSION

UNANIMOUS CONSENT AGREEMENT—H.R. 5005

Mr. REID. Mr. President, I ask unanimous consent that on Thursday, September 19, at 11:30 a.m., the Senate resume consideration of H.R. 5005, and that the time until 12:30 p.m. be for debate only with respect to the cloture motion filed on the Lieberman substitute amendment, with the time equally divided and controlled between Senators LIEBERMAN and THOMPSON or their designees; and that at 12:30 p.m., without further intervening action or debate, the Senate proceed to vote on a motion to invoke cloture on the Lieberman substitute amendment.

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

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of H. Con. Res. 469, received from the House, and which is now at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 469) authorizing the Rotunda of the Capitol to be used on September 19, 2002, for a ceremony to present the Congressional Gold Medal to General Henry H. Shelton (USA, Ret.).

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent the concurrent 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. 469) was agreed to.

QUINAULT PERMANENT FISHERIES FUND ACT

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 562, S. 1308.

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

The legislative clerk read as follows:

A bill (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, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1308) was read the third time and passed, as follows:

S. 1308

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Quinault Permanent Fisheries Fund Act''.

SEC. 2. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—Subject to section 3(c), the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be disbursed by the Secretary of the Interior and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (hereinafter in this Act referred to as the ''Tribe'') as follows:

(1) An account for the principal amount of the judgment funds. Such funds shall be used to create a Permanent Fisheries Fund. The principal funds may not be expended by the Tribe and shall be invested by the Tribe in accordance with the Tribe's investment policy.

(2) An account for the investment income earned on the Permanent Fisheries Fund from the date that the funds are disbursed under this section. These funds shall be available for fisheries enhancement projects and the costs associated with administering the Permanent Fisheries Fund. The specific fisheries enhancement projects for which such funds are used shall be specified in the Tribe's approved annual budget.

(3) An account for the investment income earned on the judgment funds from September 19, 1989, to the date of the disbursement of the funds to the Tribe under this section. These funds shall be available to the Tribe for tribal government activities. The specific tribal government activities shall be specified in the Tribe's approved annual budget.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—The Quinault Business Committee, as the governing body of the Tribe, has the discretion to determine the amount of funds available for expenditure under paragraphs (2) and (3) of subsection (a) provided that the amounts are specified in the Tribe's approved annual budget.

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts specified in subsection (a) shall be maintained separately by the Tribe and shall be subject to an annual audit.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the close of the Tribe's fiscal year, a full accounting of the previous fiscal year's investment activities and expenditures from all funds subject to this Act, which may be in the form of the annual audit, shall be made available to the tribal membership.

SEC. 3. GENERAL PROVISIONS.

(a) DEADLINE FOR DISBURSEMENT OF FUNDS.—Not later than 30 days after the date of the enactment of this Act, all funds subject to this Act shall be disbursed to the Tribe.

(b) UNITED STATES LIABILITY.—Upon disbursement to the Tribe of the funds pursuant to this Act, the United States shall no longer have any trust responsibility or liability for the investment, supervision, administration, or expenditure of the judgment funds.

(c) APPLICATION OF OTHER LAW.—All funds distributed under this Act are subject to the provisions of section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims.

RELIEF OF THE POTTAWATOMI NATION IN CANADA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 565, S. 2127.

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

The legislative clerk read as follows:

A bill (S. 2127) for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2127) was read the third time and passed, as follows:

S. 2127

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

SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.

(a) AUTHORIZATION FOR PAYMENT.—Subject to subsection (b), the Secretary of the Treasury shall pay to the Pottawatomi Nation in Canada, notwithstanding any other provision of law, $1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) PAYMENT IN ACCORDANCE WITH STIPULATION FOR RECOMMENDATION OF SETTLEMENT.—The payment appropriated under subsection (a) shall be made in accordance with the terms and conditions of the Stipulation for Recommendation of Settlement dated May 22, 2000, entered into between the Pottawatomi Nation in Canada and the United States (in this Act referred to as the ''Stipulation for Recommendation of Settlement'') and included in the report of the Chief Judge of the United States Court of Federal Claims regarding Congressional Reference No. 94–1037X submitted to the Senate on January 4, 2001, pursuant to the provisions of sections 1492 and 2509 of title 28, United States Code.

(c) FULL SATISFACTION OF CLAIMS.—The payment made under subsection (a) shall be in full satisfaction of all claims of the Pottawatomi Nation in Canada against the United States referred to or described in the Stipulation for Recommendation of Settlement.

(d) NONAPPLICABILITY.—Notwithstanding any other provision of law, the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) shall not apply to the payment appropriated under subsection (a).

RELIEF OF BARBARA MAKUCH

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 530, H.R. 486.

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

The legislative clerk read as follows:

A bill (H.R. 486) for the relief of Barbara Makuch.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid on the table, and that any statements relating to this matter be printed in the RECORD with no intervening action or debate.

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

The bill (H.R. 486) was read the third time and passed.

RELIEF OF EUGENE MAKUCH

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 531, H.R 487.

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

The legislative clerk read as follows:

A bill (H.R. 487) for the relief of Eugene Makuch.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate.

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

The bill (H.R. 487) was read the third time and passed.

EXTENDING THE IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 537, H.R. 4558.

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

The legislative clerk read as follows:

A bill (H.R. 4558) to extend the Irish Peace Process Cultural and Training Program.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to this matter be printed in the RECORD.

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

The bill (H.R. 4558) was read the third time and passed.

ORDERS FOR THURSDAY, SEPTEMBER 19, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow, Thursday, September 19; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the Interior appropriations bill and remain on it until 11:30 a.m., and that the time prior to 11:30 a.m. be equally divided between the two leaders or their designees, with the first 15 minutes following the prayer and pledge under the control of Senator REID or his designee; that at 11:30 a.m., the Senate resume consideration of H.R. 5005, the homeland security bill, under the previous order; and, further, that Senators have until 12 noon to file second-degree amendments on the homeland security bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, the next rollcall vote will occur at approximately 12:30 p.m. tomorrow, which will be on cloture on the Lieberman substitute amendment to the Homeland Security Act. Following that, there will be debate that will continue on the Byrd amendment. Following that, there should be some action taken on that amendment tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, I do not believe there is further business to come before the Senate. I therefore ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Thursday, September 19, 2002, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 2002:

MISSISSIPPI RIVER COMMISSION

RICKEY DALE JAMES, OF MISSOURI, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION FOR A TERM OF NINE YEARS. (REAPPOINTMENT)

REAR ADMIRAL NICHOLAS AUGUSTUS PRAHL, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 2 OF AN ACT OF CONGRESS, APPROVED 28 JUNE 1879 (21 STAT. 37) (22 USC 642).

DEPARTMENT OF EDUCATION

JOHN PORTMAN HIGGINS, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF EDUCATION, VICE LORRAINE PRATTE LEWIS, RESIGNED.

DEPARTMENT OF DEFENSE

ARTHUR JAMES COLLINGSWORTH, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE JOHN W. HECHINGER, SR., TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN B. SYLVESTER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD G. ANDERSON III, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. PAUL E. MOCK, 0000

To be brigadier general

COL. BRUCE A. CASELLA, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL A. HOUGH, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JEFFREY W * ABBOTT, 0000
EARL E ABONADI, 0000
BRIAN W ADAMS, 0000
JAY R * ADAMS, 0000
JOHNNY D * ADAMS, 0000
LAMAR D ADAMS, 0000
MARK E * ADAMS, 0000
LAWRENCE * AGUILLARD III, 0000
MARK J * AITKEN, 0000
STEPHEN L * AKI, 0000
TOMMY K * ALDERMAN, 0000
BARBI L * ALEANDRE, 0000
RODRIGUE * ALEANDRE, 0000
JOSEPH P * ALESSI, 0000
JOEL O * ALEXANDER, 0000
MARK E * ALEXANDER, 0000
STEPHEN B * ALEXANDER, 0000
CRAIG J ALIA, 0000
JOHN R ALLEN, 0000
PAUL M * ALLMON, 0000
MARK A * ALVAREZ, 0000
ROBERT F * ALVARO, 0000
THOMAS P AMIDON, 0000
MAXWELL J * AMMONS, 0000
BUFORD C * ANDERSON JR., 0000
CURTIS T ANDERSON II, 0000
LISA L * ANDERSON, 0000
LYLETHA D * ANDERSON, 0000
MICHAEL R ANDERSON, 0000
RICHARD C ANDERSON, 0000
SEAN D ANDERSON, 0000
WILLIAM J ANDERSON, 0000
ROBERT B ANDREW, 0000
CARMEN R ANTHONY, 0000
GEORGE * ANTONE JR., 0000
JOEL K AOKI, 0000
CHAD R * ARCAND, 0000
PATRICIA A * ARCARI, 0000
STEPHEN R * ARCAYA, 0000
KENDRA L ARMSTRONG, 0000
MICHAEL J * ARNOLD, 0000
DUTARY R * ARROCHA, 0000
OSWALDO C * ARROYO, 0000
SPENCER O ASHFORD, 0000
DAVID B * ASKEW, 0000
ERIC E ASLAKSON, 0000
MATTHEW D * ATKINS, 0000
TIMOTHY J ATKINS, 0000
CHARLES H * AUER JR., 0000
MICHAEL A * BACHAND, 0000
CORBIN K BACKMAN, 0000
JOHN M * BAILEY JR., 0000
JOSEPH A BAIRD, 0000
MARION P * BAKALORZ, 0000
ALLAN P * BAKER, 0000
HOUSTON E BAKER, 0000
SHERWOOD P * BAKER II, 0000
ALAN K * BAL, 0000
ANDREW M BALANDA, 0000
STEPHEN H BALES, 0000
MATTHEW C BALLARD, 0000
ROY D * BANZON, 0000
REGGINIAL R * BARDEN II, 0000
BALLARD C BARKER, 0000
LEROY R BARKER JR., 0000
WAYNE E BARKER, 0000
CAROL D * BARNES, 0000
DALLIS L * BARNES, 0000
SEAN W * BARNES, 0000
TROY D BARNES, 0000
ERIC E BARRAS, 0000
JOHN L BARRETT JR., 0000
WILLIAM A BARROW, 0000
KIMMIE M BARTENSLAGER, 0000
SAMUEL S BARTON, 0000
BRENT M * BARTOS, 0000
SEAN T BATEMAN, 0000
RYAN D BATES, 0000
STACY M BATHRICK, 0000

LEE A * BAUBLITZ, 0000
PHILIP A BAUDE, 0000
CHADWICK T BAULD, 0000
MICHAEL A BAUMEISTER, 0000
DAVID R BAXTER, 0000
DERRICK E BAXTER, 0000
THOMAS A * BAYER II, 0000
TERRY A * BAYLISS, 0000
LELAND R * BAYNES JR., 0000
JAIME T BAZIL, 0000
KIRBY D * BEARD, 0000
JOHN C BEATTY, 0000
CHRISTOPHER G BECK, 0000
WILLIAM T * BECK, 0000
WILLIAM V BECK, 0000
DAVID M BEDARD, 0000
SHANNON D BEEBE, 0000
ROY L BEHNE, 0000
DEL L BEILSTEIN, 0000
LAMONICA * BELL, 0000
MARY J * BELL, 0000
PETER N BENCHOFF, 0000
JOHN A * BENEDICT, 0000
ERIC J * BENEFIELD, 0000
CHRISTOPHER A * BENN, 0000
DOUGLAS W * BENNETT, 0000
CRAIG R BENSON, 0000
THOMAS F * BENTZEL, 0000
ANGEL N * BERMUDEZCASTRO, 0000
SEAN C BERNABE, 0000
DAVID W BERNARD, 0000
KOLIN V * BERNARDONI, 0000
ALLEN T * BERRY, 0000
TODD A * BERRY, 0000
ROBERT K * BERTRAND, 0000
TODD S * BERTULIS, 0000
ROBERT E * BEY, 0000
DERELL M BIBBS, 0000
GORDON J * BIERSCHENK, 0000
KEVIN A BIGELMAN, 0000
WOLFGANG T * BIGGERSTAFF, 0000
MARK O * BILAFER, 0000
DAVID P BIRON, 0000
DAVID E BITNER, 0000
JOHN C BIVONA JR., 0000
JASON J * BLAIS, 0000
GREGG T * BLAKE, 0000
ROBERT G * BLANKENSHIP, 0000
CHARLES E BLEDSOE, 0000
ELIZABETH E BLEDSOE, 0000
MICHAEL D BLOMQUIST, 0000
NATHAN B BLOOD, 0000
GLEN B * BLUMHARDT, 0000
MARC E BOBERG, 0000
NANCY E BODYK, 0000
JAMES W * BOGART, 0000
THOMAS R BOLEN, 0000
CHARLES V * BOLLES II, 0000
JOHN M BONE, 0000
RONALD A * BONOMO, 0000
THOMAS A * BOONE, 0000
DAVID P * BOOS, 0000
LEWIS L BOOTHE, 0000
GREGORY A BORCHERDING, 0000
DAVID T BOROWICZ, 0000
BARRY A BOSEMAN, 0000
BETH A * BOTTI, 0000
BRADLEY E * BOURN, 0000
BRIAN L BOWEN, 0000
RAYMOND D * BOWYER, 0000
JOHN M BOYER, 0000
LAURA B * BOZEMAN, 0000
KEITH B * BRACE, 0000
JOSE R BRACERO JR., 0000
DAVID M BRADSHAW, 0000
JAMES T BRADY II, 0000
TERRENCE L BRALEY, 0000
BRADLEY S BRANDERHORST, 0000
WILLIAM T * BRENNAN, 0000
SAMANTHA * BRETON, 0000
CHARLES E * BRICE, 0000
RONALD S * BRIDEGAM, 0000
CHRISTOPHER M BRIDGES, 0000
MARSHALL W BRIDGES, 0000
SCHUYLER M * BRISTOW, 0000
DOUGLAS L * BROCKHARD JR., 0000
JOHN C BROOKIE, 0000
PAUL T * BROOKS, 0000
SCOTT D BROOKS, 0000
MICHAEL D * BROPHY, 0000
EDWIN C BROUSE, 0000
ALVIN H BROWN, 0000
CHARLES M * BROWN, 0000
CHRISTOPHER L * BROWN, 0000
DONALD BROWN, 0000
DREDDRICK J * BROWN, 0000
EVAN J BROWN, 0000
JACQUELINE D BROWN, 0000
KEVIN H BROWN, 0000
KEVIN S BROWN, 0000
MICHAEL L BROWN, 0000
ODELL * BROWN, 0000
TIMOTHY A * BRUMFIEL SR, 0000
PATRICK D BRUNDIDGE, 0000
ERIC D * BRUNKEN, 0000
JAMES D * BRUNS JR., 0000
JOHN T * BRYANT, 0000
KEVYN M BRYANT, 0000
WILLIAM * BRYANT JR., 0000
SHATRECE B BUCHANAN, 0000
EDWARD F * BUCK JR., 0000
CLYDE M * BUCKLEY, 0000
SANTIAGO G * BUENO III, 0000
WILLIAM E * BUPPERT, 0000
DANIEL E BURCH, 0000
ROBERT A * BURGE, 0000
BRENDEN D * BURKE, 0000
DANIEL W BURNETT, 0000
GUY M BURROW, 0000
THOMAS D * BURTON, 0000
DEAN E * BUSHNELL, 0000
CHRISTOPHER S * BUTLER, 0000
THOMAS M * BUTLER, 0000
CURTIS A BUZZARD, 0000
DAVID B BYERS, 0000
DAVID A * CALDWELL, 0000
JOHN C CALHOUN, 0000
PATRICK A CALLAHAN, 0000
MIKE A * CALVIN, 0000
PATRICK R CAMPBELL, 0000
SCOTT A CAMPBELL, 0000
SHEILA E * CAMPBELL, 0000
WILLIAM J CAMPBELL III, 0000
SHAWN R * CARDER, 0000
JAVIER E CARDONA, 0000
CHARLES A CARLTON, 0000
ROBERT H * CARR, 0000
ALETHEA F * CARTER, 0000
WILLIAM J * CARTY, 0000
WILLIAM D CARUSO, 0000
JAMES R CARYL, 0000
CHRISTOPHER J * CASSIBRY, 0000
YONG S CASSLE, 0000
ROBERT C * CASTELLI, 0000
MONICA M CATER, 0000
GEOFFREY A * CATLETT, 0000
RONALD W * CATO, 0000
INGRID I * CENTURION, 0000
TANIA M * CHACHO, 0000
ERNEST R * CHAMBERS, 0000
KAREN S * CHAMBERS, 0000
JOSEPH H CHAN, 0000
MICHAEL A CHANDANAIS, 0000
MICHAEL D CHANDLER, 0000
JEAN R CHAUSSE, 0000
HARRY T CHAVEZ, 0000
BEVIN K * CHEROT, 0000
QUINZEL E * CHESTNUT, 0000
SCOTT M * CHIASSON, 0000
LAWRENCE W CHINNERY JR., 0000
DAVID D * CHIPCHASE, 0000
JOO E CHO, 0000
JEFFREY S * CHRISMAN, 0000
LANCE R CHRISTEN, 0000
WARREN * CHRISTOPHER, 0000
STEPHEN M * CICHOCKI, 0000
KEVIN F CIOCCA, 0000
CECIL L * CLARK, 0000
GREGG T CLARK, 0000
HOWARD L CLARK III, 0000
KEVIN B CLARK, 0000
STEVEN B CLARK, 0000
SEAN D CLEVELAND, 0000
ARTHUR B CLOMERA, 0000
DONN T * COFFMAN, 0000
PATRICK S COFFMAN, 0000
CHRISTOPHER COGLIANESE, 0000
GREGORY H COILE, 0000
WILLIAM C * COKER, 0000
JOHN B * COLLIER, 0000
CHARLES O COLLINS, 0000
LIAM S COLLINS, 0000
ROBERT M COLLINS, 0000
ANDREW A COLLUM, 0000
KEITH A * COLLYER, 0000
JOSE A COLONRODRIGUEZ, 0000
STEPHEN J * CONAWAY, 0000
WILLIAM D CONNER, 0000
JOHN A CONNIFF, 0000
CHRISTOPHER L * CONNOLLY, 0000
JOHN W CONNOR, 0000
ROBERT J CONNOR JR., 0000
ALANNA M COOK, 0000
FRANK J COOK, 0000
JOHN L * COOMBS, 0000
KENNETH J COON, 0000
MATTHEW H * COOPER, 0000
MICHAEL T COOPER, 0000
SUZANNE B * COOPER, 0000
WILLIE K * COPELAND, 0000
CHRISTOPHER C * CORBETT, 0000
NICHOLAS P CORRAO, 0000
SCOTT A * COULSON, 0000
DENNIS D COWHER, 0000
IRIS M COWHER, 0000
CHRISTOPHER J * COX, 0000
DARREN * COX V, 0000
ROBERT L COX JR., 0000
RUSSELL * COX JR., 0000
BRUCE R COYNE, 0000
JAMES W CRAFT III, 0000
ALAYNE P CRAMER, 0000
PAUL A CRAVEY, 0000
ELTON E * CRAWFORD II, 0000
GEOFFREY A CRAWFORD, 0000
TIMOTHY * CREIGHTON, 0000
CARMELO A * CRESPOAGUADO, 0000
MARK R * CRISMAN, 0000
STEPHEN W * CROLEY, 0000
BRADY A CROSIER, 0000
JOHN D CROSS, 0000
ROBERT M * CROWLEY, 0000
CURTIS L * CRUM, 0000
JOSEPH A CRUSE, 0000
CLARENCE C * CUDE JR., 0000
ELOY E CUEVAS, 0000
BRADLEY W CULLUM, 0000
GERY B * CUMMINGS, 0000
MARC J CUMMINS, 0000
ROBERT M * CUNNINGHAM, 0000
CHARMAINE R CUNTZ, 0000
LANCE G CURTIS, 0000
SAMUEL W CURTIS, 0000
JOHN M CUSHING, 0000
SEAN B * CUSKER, 0000
WILLIAM P CZAJKOWSKI JR., 0000
CHARLES P DALY, 0000
BRIAN G DAMRON, 0000
SHAWN L DANIEL, 0000
DENNIS C DANIELS, 0000
GERALDINE R DANIELS, 0000
TIMOTHY J DARGIE, 0000
JAMES A DAVEL, 0000
WILLIAM E * DAVENPORT II, 0000
MARK D * DAVEY, 0000
HEATHER M DAVIDSON, 0000
MICHAEL L DAVIDSON, 0000
PAUL G DAVIDSON, 0000
FRANK G * DAVIS II, 0000
GLORIA D * DAVIS, 0000
JOHNNY K DAVIS, 0000
QUACEY L DAVIS, 0000
RICHARD S * DAVIS, 0000
STEPHEN R DAVIS, 0000
TOYA J DAVIS, 0000
DAVID T DEAN, 0000
RICHARD B DEBANY, 0000
ELIZABETH DELBRIDGEKEOUGH, 0000
HAROLD C DEMBY, 0000
JEFFREY C DENIUS, 0000
DANIEL H DENT, 0000
THOMAS A * DENZLER, 0000
JOELLE J DERBONNE, 0000
ANTHONY J * DEROSE, 0000
MICHAEL C DEROSIER, 0000
ROY A * DESILVA, 0000
CHRISTOPHER D * DESSASO, 0000
MICHAEL J DEVINE III, 0000
CHRISTOPHER E * DEXTER, 0000
JAMES B * DICKEY, 0000
KEVIN J * DIERMEIER, 0000
NATHAN S * DIETRICH, 0000
MICHELLE L DIGRUTTOLO, 0000
SHANE C * DILLOW, 0000
GAI * DIMANT, 0000
MATTHEW A DIMMICK, 0000
PAUL D * DISMER, 0000
GORDON E DODSON JR., 0000
DAVID P * DOHERTY, 0000
SEAN M DOHERTY, 0000
CHRISTOPHER T DONAHUE, 0000
MICHAEL C DONAHUE, 0000
DAVID R * DONOVAN, 0000
DAVID A * DOSIER, 0000
MARK H DOTSON, 0000
GREGORY J * DOUBEK, 0000
ARTHUR D * DOUGLAS, 0000
WILLIAM C * DOWNER, 0000
CHRISTOPHER P DOWNEY, 0000
MICHAEL C DOYLE, 0000
RUSSELL G DRAPER, 0000
CHRISTOPHER T DREW, 0000
WILLIE L * DRUMGOLD JR., 0000
RONALD B DUBOIS, 0000
MICHAEL A * DUCK, 0000
DANIEL J DUDEK, 0000
TIMOTHY M * DUFFY, 0000
GERALD R DULL, 0000
KURT A * DULLE, 0000
JAMES A * DUNCAN, 0000
THOMAS A * DUNCAN II, 0000
GLORIA D DUNKLIN, 0000
BRIAN R * DUNMIRE, 0000
CHRISTOPHER R DURHAM, 0000
PAUL R DWIGANS, 0000
BRIAN R EBERT, 0000
MARSHALL V ECKLUND, 0000
DONALD W EDWARDS JR., 0000
DOUGLAS J * EDWARDS, 0000
MICHAEL E EDWARDS, 0000
RICHARD J * EDWARDS, 0000
STEPHEN R * EDWARDS, 0000
WILLIAM B EGER, 0000
TROY D EGGUM, 0000
MATTHEW L EICHBURG, 0000
MONTE K * ELDERT, 0000
LANCE R * ELDRED, 0000
MICHAEL G * ELLIOTT, 0000
BRUCE E * ELLIS, 0000
DEBORAH M ELLIS, 0000
KEVIN L * ELLISON, 0000
TODD G * EMOTO, 0000
EDWARD L * ENGLISH, 0000
MICHAEL F * ENNABE, 0000
MICHAEL J ERNST, 0000
JOHN R * ESPE, 0000
ALFRED J * EVANS, 0000
ARDRELLE L EVANS, 0000
JEFFREY G * EVANS, 0000
MARK A EVANS, 0000
MARK M * EVANS, 0000
MARY V * EWING, 0000
CHARLES A * FALLANG, 0000
MARTIN J * FARENFIELD, 0000
THERMAN A * FARLEY, 0000
ANDREW F FARNSLER, 0000
ROGER E * FARRIS, 0000
MATTHEW H FATH, 0000
EDWARD F * FEARS, 0000
KYLE E FEGER, 0000
KURT P * FELPEL, 0000
THOMAS A FEUERBORN, 0000
DARREN E FEY, 0000
KERRY E FIELDS, 0000
SARAH C * FIELDS, 0000
JORGE L FIGUEROACRUZ, 0000
KEVIN J FINCH, 0000
ANN G FINLEY, 0000
ENRICCO C FINLEY, 0000
STEVEN G * FINLEY, 0000
TODD J FISH, 0000

DARREN P FITZGERALD, 0000
DAVID G FIVECOAT, 0000
JAMES R FLANDERS, 0000
SCOTT T * FLEEHER, 0000
TIMOTHY J * FLETCHER, 0000
BRIAN K FLOOD, 0000
ROSS D FLORES, 0000
DARREN M * FLOWERS, 0000
JOHN C FORD, 0000
JOHN P * FORTIER, 0000
MICHAEL E FOSTER SR, 0000
ROBERT D * FOSTER JR., 0000
THOMAS F * FOSTER, 0000
JONATHAN L FOWLER, 0000
TIMOTHY R FRAMBES, 0000
MATTHEW H * FRANCE, 0000
SABRINA E * FRANCIS, 0000
WILL D * FRANKLIN, 0000
JOHN F * FRAVEL III, 0000
CHARLES D FREEMAN, 0000
EARL A FREEMAN, 0000
JONATHAN E * FREEMAN, 0000
BRIAN P * FREIDHOFF, 0000
ERIC W FRENSLEY, 0000
ROBERT G * FREYLAND, 0000
TOD A FRIANT, 0000
JAMES A FRICK, 0000
MITCHELL C * FRIEDMAN, 0000
DANIEL * FRIEND, 0000
ANTHONY E * FRITCHLE, 0000
LUIS O * FUENTESRIVERA, 0000
DANIEL L FURBER, 0000
ROLAND M GADDY JR., 0000
ANDREW C GAINEY, 0000
JARED J * GALAZIN, 0000
KEITH A GALLEW, 0000
ALPHONSO L GAMBLE, 0000
KENNETH L * GAMBLES, 0000
JOSE F * GARCIA, 0000
PAUL N GARCIA, 0000
GAVIN J GARDNER, 0000
JEFFREY V * GARDNER, 0000
NICOLE J * GARDNER, 0000
CRAIG R GARDUNIA, 0000
JOSEPH F * GARST, 0000
ANTHONY * GAUTIER, 0000
KEVIN L * GEISBERT, 0000
JAMES C GEISER, 0000
ANDY J * GENASCI, 0000
WILLIAM R GENTER, 0000
RAYMON E * GEORGE, 0000
DARREN S GERBLICK, 0000
LANCE G * GIDDENS, 0000
JAYSON C * GILBERTI, 0000
FRANK V * GILBERTSON, 0000
BUDD C * GILFILLEN JR., 0000
TIMOTHY M * GILHOOL, 0000
AMERICUS M GILL III, 0000
MICHAEL M * GILL, 0000
ANGELA C * GILPIN, 0000
KEVIN D GILSON, 0000
DANIEL R * GINN, 0000
JEFFREY S GLOEDE, 0000
THOMAS P GLOVER, 0000
MARTIN D * GLYNN, 0000
MATTHEW A GODFREY, 0000
JOHN K GOERTEMILLER, 0000
PAUL L * GOETHALS, 0000
DAVID J GOETZE, 0000
ROBERT J GONDOLFO, 0000
DAVID P * GOODMAN, 0000
SHANE P * GOODSON, 0000
BRETT F * GORDON, 0000
GORDON M * GORE, 0000
JOHN R * GOSSART, 0000
JAMES A GOTTSCHLING JR., 0000
MARKO K * GRAHAM, 0000
JOEL C * GRANTHAM JR., 0000
PETER N GREANY, 0000
DAVID C * GREEN, 0000
DUANE K GREEN, 0000
LANCE B * GREEN, 0000
TIMOTHY M GREENHAW, 0000
ALEXANDER E GREENWICH, 0000
AMANDA P GREIG, 0000
SCOT W GREIG, 0000
ROBERT W GRIEGO, 0000
ELIZABETH R * GRIFFIN, 0000
JOSEPH D * GRIMES, 0000
RHETT B GRINER, 0000
SUSAN M * GROSENHEIDER, 0000
ROBERT A GRUBBS, 0000
GREGORY H * GRZYBOWSKI, 0000
DANIEL GUADALUPE, 0000
THOMAS B * GUKEISEN, 0000
JAMES E * GULLEY JR., 0000
NATHANIEL D * GUSTIN, 0000
CHRISTINA M GUTHRIE, 0000
ROBERT A GUTIERREZ, 0000
DOUGLAS B GUTTORMSEN, 0000
YI S GWON, 0000
CHRISTINE A HACKETT, 0000
RAYMOND E * HACKLER, 0000
CARLOS * HADDOCKGOMEZ, 0000
JUSTIN D * HADLEY, 0000
MARTY G HAGENSTON, 0000
DAVID W * HAINES, 0000
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MICHAEL P * HAKEMAN, 0000
SAMUEL E HALES, 0000
RONALD H * HALEY JR., 0000
JERRY A * HALL, 0000
MARIE L HALL, 0000
TYRONE J * HALL, 0000
PHILIP J * HALLIBURTON, 0000
JASON M * HALLOREN, 0000
THOMAS B * HAM, 0000
MARC A * HAMILTON, 0000
VICTOR S HAMILTON, 0000
TIMOTHY E HAMM, 0000
PHILIP L HANCOCK, 0000
YEE C HANG, 0000
MATHEW J HANNAH, 0000
THOMAS D HANSBARGER, 0000
JOHN R * HANSON, 0000
STEVEN G HANSON, 0000
SHERRILL D * HARDEE, 0000
FRANCES A * HARDISON, 0000
DIANA M * HARDY, 0000
JAMES E * HARDY, 0000
WILLIAM M * HARDY JR., 0000
CYNTHIA HARGROW JR., 0000
GREGORY S HARKINS, 0000
GARRICK M HARMON, 0000
DARYL M * HARP, 0000
FRANK W HARRAR, 0000
ANTHONY N * HARRIS, 0000
ELLIOT E * HARRIS, 0000
JAMES R * HARRIS JR., 0000
RASHANN D * HARRIS, 0000
TERRECE B HARRIS, 0000
LARRY D HARRISON II, 0000
HARRIET A * HARTLEY, 0000
JAMES E HARVEY, 0000
MICHAEL D * HASTINGS, 0000
BARRY M * HATCHETT, 0000
STUART A HATFIELD, 0000
STACIE I HATTEN, 0000
JOHN R HAUBERT IV, 0000
KERIEM X HAUG, 0000
THOMAS M HAWES, 0000
JON * HAWKINS, 0000
SHAWN L HAWKINS, 0000
GEORGE J * HAWVER, 0000
DAVIS S HAYES, 0000
JAMES E HAYES III, 0000
JASON R HAYES, 0000
KEITH C * HAYES, 0000
GREGORY A * HAYNES, 0000
CYNTHIA A HAZEL, 0000
SCOTT F * HEADEN, 0000
ANTHONY J * HEALEY, 0000
LAURA J HEATH, 0000
SHAWN A * HEBERT, 0000
JOSEPH D * HECK JR., 0000
STEVEN A HEDDEN, 0000
MICHAEL B HEDGES, 0000
TOWNLEY R * HEDRICK, 0000
JOSEPH E HEFFERNAN, 0000
ERIC T * HEIST, 0000
JOHN W * HELMIC, 0000
ERIC D * HENDERSON, 0000
MICHAEL D * HENDERSON, 0000
MARK E HENRIE, 0000
DREW A * HENRY, 0000
WELDON B * HENRY, 0000
THOMAS C * HENSLEY, 0000
TROY B * HENSLEY, 0000
THOMAS J HENTHORN JR., 0000
EDGAR HERNANDEZ JR., 0000
GERARDO HERNANDEZPABON JR., 0000
JOSEPH J * HERRMANN, 0000
JIMMY J HESTER, 0000
EARL B * HIGGINS JR., 0000
CHARLES H * HIGHSMITH, 0000
SEAN A * HILBER, 0000
COFIELD B * HILBURN, 0000
RONALD B HILDNER, 0000
TIMOTHY C HILGNER, 0000
BRADLEY C * HILTON, 0000
KELLY E * HINES, 0000
STEVEN B * HINES, 0000
SCOT R HODGDON, 0000
CLIFFORD M * HODGES, 0000
RICHARD J * HOERNER, 0000
DEAN M * HOFFMAN IV, 0000
MARC F HOFFMEISTER, 0000
JAMES R * HOGAN, 0000
MARK A HOLLER, 0000
JANET R * HOLLIDAY, 0000
THOMAS P HOLLIDAY JR., 0000
MARK A * HOLLINGSWORTH, 0000
FREDRICK C HOLLIS, 0000
ERIC A HOLLISTER, 0000
TIMOTHY W * HOLMAN, 0000
DARYL O * HOOD, 0000
MICHAEL K * HOOD, 0000
GERARD C * HOOK, 0000
HAROLD D * HOOKS JR., 0000
DAVID L * HOOPER, 0000
JAMES P HOOPER, 0000
DAVID J * HORAN, 0000
ALVIN R * HORN, 0000
SHELDON D HORSFALL, 0000
JOHN D * HORSTMANN, 0000
ARTURO J HORTON, 0000
ANDREW R HORVATH, 0000
DAVID J * HOSNA, 0000
JANE M HOSTETLER, 0000
JEFFREY B * HOUSE, 0000
JAMES L HOWARD JR., 0000
PATRICK V HOWELL, 0000
MARTIN A * HOWLEY II, 0000
ROBERT S HRIBAR, 0000
JAMES E HUBER, 0000
WILLIAM H * HUFF IV, 0000
NATHAN B HUNSINGER JR., 0000
HOWARD T HUNT, 0000
WILLIAM T * HUNT JR., 0000
PATRICK L HURLEY, 0000
DONALD W HURST III, 0000
NOAH * HUTCHER III, 0000
RODERICK M HYNES, 0000
ERIC G * IACOBUCCI, 0000
OLAJIDE E * IJADARE, 0000
BENTON F * ILES, 0000
MATTHEW J INGRAM, 0000
PAUL H * INGRAM, 0000
SULA L * IRISH, 0000
JOSEPH T * IRWIN JR., 0000
ALEXANDER H * ISAAC JR., 0000
BOB A * ISAAC, 0000
KARL S * IVEY, 0000
ALICIA D JACKSON, 0000
JAMES E * JACKSON, 0000
MARK A JACKSON, 0000
PETER D JACKSON, 0000
WILLIAM D * JACKSON, 0000
STEVEN M JACOB, 0000
GREGORY K JACOBSEN, 0000
VERNON E JAKOBY, 0000
MICHAEL E JAMES, 0000
RYAN M JANOVIC, 0000
BRIAN L * JENKINS, 0000
JEFFREY L JENNETTE, 0000
JAMES JENNINGS, 0000
MARK D JERNIGAN, 0000
MICHAEL A JOHNS, 0000
ALAN L * JOHNSON, 0000
ANTONIA D JOHNSON, 0000
JEFFREY H JOHNSON, 0000
MARK A * JOHNSON, 0000
MICHAEL L * JOHNSON, 0000
RADONNA J * JOHNSON, 0000
STEVEN R * JOHNSON, 0000
STEVEN W JOHNSON, 0000
THOMAS C * JOHNSON, 0000
VICKKI G * JOHNSON, 0000
WILLIAM B * JOHNSON, 0000
KEVIN L * JOHNSTON, 0000
WADE B JOHNSTON, 0000
HERBERT A * JOLIAT, 0000
BENJAMIN C * JONES, 0000
BENJAMIN S * JONES, 0000
BROCK D * JONES, 0000
DAVID C * JONES, 0000
DAVID E JONES, 0000
DAVID M JONES, 0000
ERNEST C * JONES, 0000
GREGORY T * JONES, 0000
MARTINA L * JONES, 0000
RANDY A JONES, 0000
GEORGE H * JONS JR., 0000
JAMES J JORDANO, 0000
ANTHONY G JUDGE, 0000
SHANNON D * JUDNIC, 0000
JAMIE D * JUHL, 0000
STEPHANIE A JUNG, 0000
PIERRE D JUTRAS, 0000
KENNETH N * KAAIHUE, 0000
WILLIAM H KACZYNSKI, 0000
ROBERT P KADERAVEK, 0000
DOUGLAS M KADETZ, 0000
JAMES W KAINE, 0000
MATTHEW E * KALESKAS, 0000
YVETTE M * KANNEY, 0000
JOHN W KARAGOSIAN, 0000
JILL F * KARAYANNIS, 0000
KIM T KAWAMOTO, 0000
JOHN D KAYLOR JR., 0000
NICOLE M KEENAN, 0000
DANIEL F KELLEY JR., 0000
PATRICK A * KELLEY, 0000
RICHARD R KELLING, 0000
CARL D * KELLY JR., 0000
MADALYN S * KELLYHINNANT, 0000
WILLIAM C * KELTNER, 0000
IAN P * KENNEDY, 0000
NELSON G KERLEY JR., 0000
BRETT E KESSLER, 0000
CHRISTOPHER J KIDD, 0000
ROBERT F * KIERMAYR, 0000
ANDREW B * KIGER, 0000
BRADLEY J * KILLEN, 0000
CHARLES F KIMBALL, 0000
MICHAEL F KIMBLE SR, 0000
WILLIAM F * KIMBLEY, 0000
DAVID R KING, 0000
FEDERICA L KING, 0000
BRET C * KINMAN, 0000
JOHN C KIRALY, 0000
JASON A KIRK, 0000
MICHAEL G * KIRKLAND, 0000
HERMAN F KIRSCH, 0000
SEAN G KIRSCHNER, 0000
DARREN J * KLEMENS, 0000
JOHN D * KLINE, 0000
KEVIN M KLOPCIC, 0000
STEPHEN G KNEELAND, 0000
NIAVE F KNELL, 0000
EDITH E KNELLINGER, 0000
DAVID L KNIGHT, 0000
JOHN A * KNIGHT, 0000
KENNETH M * KNIGHT, 0000
STEPHEN L * KNOTTS, 0000
TIMOTHY J KNOWLES, 0000
CHARLES H * KOEHLER III, 0000
MICHAEL D * KOHLER, 0000
RATNA P * KOLLI, 0000
ANDREW W KOLOSKI, 0000
WILLIAM K * KONDRACKI, 0000
KELLY S * KONECNY, 0000
JOHN * KOTZMAN, 0000
LORA A * KOUP, 0000
KEVIN J KRACKENBERGER, 0000
DAVID P * KRAHL, 0000
DAVID R KRAMER, 0000
JOEL B * KRAUSS, 0000
KRISTIN D * KREMER, 0000
ROBERT S * KRENZEL JR., 0000
DANIEL F KUNTZ, 0000

CHARLES L KURZ, 0000
BENJAMIN L * KUYKENDALL, 0000
CALYES L * KYNARD II, 0000
JEFFERY M LACAZE, 0000
MICHAEL J * LACKMAN, 0000
MICHAEL A * LADD, 0000
THOMAS M LAFLEUR, 0000
ALBERT A LAHOOD JR., 0000
DAVID A * LAHTI, 0000
CHRISTOPHER LAMBESIS, 0000
LINDA M LAMM, 0000
JOHN C * LAMME, 0000
ALLAN H * LANCETA, 0000
JAMES D * LANDER, 0000
PAUL D * LANDRY, 0000
CYNTHIA * LANG, 0000
ADAM W LANGE, 0000
TOD A * LANGLEY, 0000
PAUL E * LANZILLOTTA, 0000
ERIC J * LARSEN, 0000
JONATHAN C LARSEN, 0000
KELLY D LAUGHLIN, 0000
KEVIN T * LAUGHLIN, 0000
PAUL M * LAURO, 0000
ROBERT N * LAW, 0000
MICHAEL J * LAWRENCE, 0000
TIMOTHY R LAWRENCE, 0000
JOSEPH H LAWSON III, 0000
DAVID J * LEACH, 0000
THEODORE M LEBLOW, 0000
RICARDO LEBRON, 0000
CARLETON A LEE, 0000
DAVID S LEE, 0000
KEVIN H * LEE, 0000
WILLIAM E * LEE III, 0000
WON S LEE, 0000
KENNETH M LEEDS JR., 0000
SEAN M * LEEMAN, 0000
CECIL W LEGGETT JR., 0000
CHRISTOPHER D * LELJEDAL, 0000
RODGER S * LEMONS, 0000
CYNTHIA A LERCH, 0000
JASON LERNER, 0000
TIMOTHY P LEROUX, 0000
JOSEPH M LESTORTI, 0000
MARK J LESZCZAK, 0000
PETER S LEVOLA, 0000
DAVID R LEWIS, 0000
GEORGE E LEWIS, 0000
RUSSELL S * LEWIS, 0000
WILLIAM I LEWIS JR., 0000
GREGORY L * LINDSEY, 0000
ROBERT I LITTMAN, 0000
KEVIN D * LITWHILER, 0000
JOHN A * LOBASH JR., 0000
VIOLET H * LOCKE, 0000
MARVIN G LOERA, 0000
DAVID T LONDON, 0000
DARON L LONG, 0000
SEAN W * LONG, 0000
CARLOS E LOPEZGUZMAN, 0000
ROBERT W * LOVE JR., 0000
KIRK A * LOVING, 0000
SIDNEY J LOYD, 0000
STEPHEN W * LUCAS, 0000
ERIC W LUDWIG, 0000
BRAD P * LUEBBERT, 0000
TIMOTHY D LUEDECKING, 0000
PETER B * LUGAR, 0000
BRIAN J LUNDAY, 0000
CORWIN J LUSK, 0000
SCOTT D * LUTJENS, 0000
JOHN S LYERLY, 0000
ERICH C * LYMAN, 0000
KEVIN R LYNCH, 0000
THOMAS J LYNCH, 0000
MONICA F LYONS, 0000
BRIAN J LYTTLE, 0000
LEE J * MACGREGOR, 0000
MATTHEW J MACHON, 0000
TIBURCIO * MACIAS JR., 0000
ANDREW W MACK, 0000
WESLEY F * MACMULLEN, 0000
STEVEN C * MADDRY JR., 0000
NARCISSUS E * MAGTURO, 0000
ROBIN L * MAHADY, 0000
THAMAR A MAIN, 0000
DAVID S MALLORY JR., 0000
CHRISTINA M * MANGANO, 0000
DAVID J MANGES SR, 0000
ROBERT * MANNING III, 0000
LANCE W * MANSKE, 0000
CRAIG J MANVILLE, 0000
MAURICE E MARCHBANKS, 0000
MARK T MARIK, 0000
VICTOR M MARRERO, 0000
TIMOTHY J * MARSHALL, 0000
JEFFREY W MARTIN, 0000
JOSEPH J MARTIN, 0000
LYLE L MARTIN, 0000
MARY L MARTIN, 0000
MICHAEL B * MARTIN, 0000
MARK T * MARTINEZ, 0000
SILAS G MARTINEZ, 0000
JEFFREY D * MARTUSCELLI, 0000
CHARLES J * MASARACCHIA, 0000
MICHAEL L MATHEWS, 0000
MICHAEL A * MATNEY, 0000
CYNTHIA A * MATUSKEVICH, 0000
JAMES A MAXWELL, 0000
PAUL E MAXWELL, 0000
JOHN P MAYER, 0000
TIMOTHY J MAYNARD, 0000
RUSSELL B MCBROOM JR., 0000
JOSEPH * MCCALLION JR., 0000
EDWARD W * MCCARTHY, 0000
ROBERT A MCCASLIN, 0000
WILLIAM J MCCLARY, 0000
RICHARD K MCCLUNG, 0000
DAVID J MCCONNELL, 0000
STEPHEN J MCCULLOUGH, 0000
JAMES E MCDONOUGH, 0000
MAURICE L * MCDOUGALD, 0000
MICHAEL P MCELRATH, 0000
ERIC M MCFADDEN, 0000
JAMES L * MCFADYEN, 0000
THOMAS N MCFADYEN, 0000
JIMMY R * MCFALL, 0000
TOMMIE T * MCGAY, 0000
RANDY E MCGEE, 0000
JAMES T MCGHEE, 0000
JAMES M * MCGOVERN, 0000
MICHAEL K * MCGURK, 0000
KEVIN R MCKAY, 0000
MARSHALL A MCKAY, 0000
MICHAEL D MCKAY, 0000
MATTHEW R MCKINLEY, 0000
QUINONES A * MCLAMB, 0000
VINCENT A * MCLEAN, 0000
WILLIAM R * MCMILLAN, 0000
STEPHEN M MCMILLION, 0000
LONNIE J MCNAIR JR., 0000
JOHN M MCNEALY, 0000
LEE * MCQUEEN III, 0000
GLENN M MCRILL, 0000
KEITH J MCVEIGH, 0000
CLINTON S MCWHORTER, 0000
JOHN A MEANS JR., 0000
SCOTT A MEEHAN, 0000
LAWRENCE R * MEESE JR., 0000
THOMAS L * MELROSE II, 0000
JUAN * MENDOZA JR., 0000
GERARDO V MENESES, 0000
RICHARD L * MENHART, 0000
KIMBERLY M * MERCY, 0000
CHRISTOPHER D * MEREDITH, 0000
JEFFREY A * MERENKOV, 0000
ANNETTE C * MERFALEN, 0000
TIMOTHY J * MERTSOCK, 0000
GARRET K MESSNER, 0000
MARIA K METCALF, 0000
MARI E * MEW, 0000
JOHN V MEYER III, 0000
ROBERT J MICELI, 0000
PATRICK R MICHAELIS, 0000
SCOTT D * MICKLEWRIGHT, 0000
ROBERT E MIDDLETON, 0000
WILLIAM P * MIGOS, 0000
JODY C MILLER, 0000
ROLLIN L MILLER, 0000
SCOTT R MILLER, 0000
SHANNON T MILLER, 0000
STEPHEN A * MILLER, 0000
STEVEN M MILLIKEN, 0000
CHRISTOPHER D * MILLS, 0000
JON R * MILNER, 0000
ANDREW L * MILTNER, 0000
RONALD J MINTY JR., 0000
BILLY M MIRANDA, 0000
JUAN A * MIRANDASANTIAGO, 0000
JAMES M MISHINA, 0000
GARY P MISKOVSKY, 0000
ANTHONY P * MITCHELL, 0000
CAMERON G * MITCHELL, 0000
DARREN S MITCHELL, 0000
KOREY O MITCHELL, 0000
WILLIAM M * MIZELL, 0000
JOHN A MOBERLY, 0000
BRADLEY F MOCK, 0000
ROBERT J MOLINARI, 0000
PHILIP P * MONBLEAU, 0000
ROBERT B * MONK, 0000
JEFFREY J * MONTE, 0000
CHARLES P MOORE, 0000
DONALD E * MOORE, 0000
LANCE D MOORE, 0000
MATTHEW P MOORE, 0000
MATTHEW R MOORE, 0000
MAXIMO A * MOORE, 0000
CATHERINE L * MORELLE, 0000
CHRISTOPHER S MORETTI, 0000
DAVID J MORGAN, 0000
DAVID L * MORGAN III, 0000
SEAN M MORGAN, 0000
TODD T MORGAN, 0000
CALVIN A * MORRIS, 0000
JASON R MORRIS, 0000
NICOLE R MORRIS, 0000
ERIC M * MORRISON, 0000
DEWEY A MOSLEY, 0000
ROBERT S MOTT, 0000
WILLIAM * MOTT, 0000
HAKEEM A * MUHAMMAD, 0000
RICHARD L * MULLINS, 0000
THOMAS E MUNSEY, 0000
IAN D * MURDOCH, 0000
TIMOTHY R MURDOCK, 0000
GEORGE J * MURRAY, 0000
JEFFREY S MURRAY, 0000
LARRY G MURRAY JR., 0000
JAMES M MYERS, 0000
VERNON L * MYERS, 0000
WILLIAM C NAGEL, 0000
MICHAEL T NAIFEH, 0000
PAUL J NAROWSKI II, 0000
VINCENT D * NAVARRE, 0000
AHMED E NAWAB, 0000
TROY A NEASBITT, 0000
THOMAS G NEEMEYER, 0000
DAVID R NEHRING JR., 0000
ROBERT J * NEITZEL, 0000
BRUCE W NELSON, 0000
JACK H NELSON, 0000
JUDSON P NELSON JR., 0000
LANDY T NELSON JR., 0000
STEVEN W * NETTLETON, 0000
THOMAS D * NETZEL, 0000
MARK E * NEUBAUER, 0000
JEFFREY S * NEUMANN, 0000
MARK A * NEWBY, 0000
BRANDON D * NEWTON, 0000
VANESSA * NEWTON, 0000
BOBBY S NICHOLSON, 0000
DEMETRIOS J NICHOLSON, 0000
HEATH J NIEMI, 0000
T B NINNESS, 0000
ALEXANDRA O * NJYNSKI, 0000
ARNOLD J * NOONAN, 0000
DANA A * NORTON, 0000
JOSEPH J * NOWICKI, 0000
MATTHEW H NUHSE, 0000
VINCENT C * NWAFOR, 0000
JEREMIE J * OATES, 0000
ROBERT A OBRIEN IV, 0000
EDWARD P * OCONNOR, 0000
LUCKY D OCONNOR, 0000
MICHAEL T * OESCHGER, 0000
JOHN D OGBURN, 0000
CRYSTAL M OLIVER, 0000
DARRELL * OLIVER, 0000
ERIC P * OLSON, 0000
JOSEPH T * ONEIL, 0000
GREGORY * OQUENDO, 0000
CHARLES R * OQUINN, 0000
ANDREW S * ORNELAS, 0000
STANNUS P ORR, 0000
ANDREW A * OSBORN, 0000
LANCE D * OSKEY, 0000
STEVEN E OSTERHOLZER, 0000
GREGORY M * OTTO, 0000
GERARD J * OVERBEY, 0000
RANDALL G OWENS, 0000
ANDREW A * PACHE, 0000
DONALD C PADGETT, 0000
GEORGE * PADILLA, 0000
WESLEY P PADILLA, 0000
JOHN M PAGANINI, 0000
MATTHEW N * PAIGE, 0000
KI Y PAK, 0000
JOHN PARENTE JR., 0000
STEVE D * PARK, 0000
CHARLES R PARKER, 0000
DAVID L * PARKER, 0000
MARK B * PARKER, 0000
WILLIAM G * PARSONS, 0000
MICHAEL J * PATE, 0000
JACQUELINE L PATTEN, 0000
FLINT M * PATTERSON, 0000
THOMAS D * PATTON JR., 0000
KEVIN P * PAUL, 0000
JOEL S PAWLOSKI, 0000
BRIAN A PAYNE, 0000
WILLIAM F PEARMAN, 0000
NATALIE M * PEARSON, 0000
WILLIAM E PEARSON JR., 0000
WANDA L * PEE, 0000
ISAAC J * PELTIER, 0000
GREGORY H PENFIELD, 0000
CARLOS M PEREZ, 0000
CELESTINO PEREZ JR., 0000
MARIO L PEREZ, 0000
MELANIE S * PEREZ, 0000
JEFFREY C * PERRY, 0000
FADI J PETRO, 0000
ELIJAH PETTY JR., 0000
CHARLES G PHILLIPS, 0000
JO D PHILLIPS, 0000
KEITH C PHILLIPS, 0000
MICHAELA M * PHILLIPS, 0000
PETER B * PICARD, 0000
ROBERT G * PICHT JR., 0000
RICHARD M PIERCE, 0000
JEAN M PIERRE, 0000
SEAN L PIERSON, 0000
GEOFFREY D PINSKY, 0000
WILLIAM R PITTMAN IV, 0000
GEORGE A PIVIK, 0000
CHRISTIANE L PLOCH, 0000
TODD A PLOTNER, 0000
KEVIN S * POATES, 0000
JOHN A POLHAMUS, 0000
STEPHEN D POMPER, 0000
CHRISTIAN L * PORTER, 0000
TROY M POTKOVIC, 0000
PEYTON * POTTS, 0000
JAMES S POWELL, 0000
SHAWN B * POWELL, 0000
PATRICK V POWERS, 0000
CLIFTON PRAT, 0000
TIMOTHY L * PRATER, 0000
BRIAN W * PREISS, 0000
CURTIS W * PRICE, 0000
DEMETRIUS R PRICE, 0000
JOHN D * PRICE, 0000
KEITH C PRITCHETT, 0000
KEVIN E * PRUITT, 0000
JAMES B * PUGEL, 0000
JOHN S PULS, 0000
DAVID M * PURSLEY, 0000
ROBERT J PURTLE, 0000
CARL E * PURVIS, 0000
ROLAND V QUIDACHAY, 0000
MARRERO I QUINONES, 0000
RICHARD J QUIRK IV, 0000
JOSEPH P RAATZ, 0000
RANDALL G * RAGER, 0000
ROBERT L * RAGLAND, 0000
TROY J * RAMIREZ, 0000
ALAN L RAMOS, 0000
KELVIN M * RANKIN, 0000
ERIC C RANNOW, 0000

AUDREY * RANSOM, 0000
DAVID L RAUGH, 0000
CRAIG M * RAVENELL, 0000
DAVID G RAY, 0000
FIRMAN H RAY, 0000
REBECCA S RAY, 0000
JOEL D RAYBURN, 0000
MARK R READ, 0000
THEODORE R * READ, 0000
DAVID M REARDON JR., 0000
MARY T REARDON, 0000
JOHN A * REDINGER II, 0000
JOSEPH E * REDMON JR., 0000
SHERRI K * REED, 0000
STEVEN W * REED, 0000
VIRGINIA * REED, 0000
RICHARD P REESE III, 0000
STANLEY A * REEVES, 0000
NEIL A * REILLY JR., 0000
PATTY A * REIM, 0000
CHAD A REIMAN, 0000
DANA R * REINHART JR., 0000
DAVID B REINKE, 0000
JENNIFER A REINKOBER, 0000
JAMES E * REXFORD, 0000
RICHARD T * REYES, 0000
EDWARD W * RHINIER, 0000
CARL E * RHODES III, 0000
ANTHONY * RIBERA JR., 0000
ROGER M * RICHGRUBER, 0000
RICHARD F RICHKOWSKI JR., 0000
ROBERT N RIDDLE, 0000
GARY G RIDENHOUR, 0000
DOUGLAS B RIDENOUR, 0000
MARK A * RIDGLEY, 0000
MICHAEL A * RIDGWAY, 0000
HAROLD T * RIGGINS III, 0000
MARK S RILEY, 0000
STEPHEN J RILEY, 0000
ROYAL S RIPLEY, 0000
WENDY L * RIVERS, 0000
BRANDON S * ROBBINS, 0000
CHRISTOPHER K * ROBBINS, 0000
AARON D ROBERSON, 0000
ROCHELLE C * ROBERSON, 0000
CURTIS V * ROBERTS, 0000
DANIEL M ROBERTS, 0000
CHARLES D ROBINETTE, 0000
RICHARD E * ROBINSON III, 0000
PAUL W ROBYN, 0000
JASON P * ROCK, 0000
PAUL W RODGERS, 0000
THOMAS J * ROE, 0000
ERIC J ROGERS, 0000
STEPHEN C ROGERS, 0000
TILGHMAN B * ROGERS II, 0000
RICHARD R * ROLLER, 0000
KEVIN P ROMANO, 0000
MELINDA S * ROMERO, 0000
RICARDO A * ROMERO, 0000
TRAVIS E * ROOMS, 0000
JUAN * ROSAS, 0000
CRAIG S ROSEBERRY, 0000
GEORGE L ROSS, 0000
DANIEL N * ROUSE, 0000
JAMES D ROUSE, 0000
MICHAEL J * RUBI, 0000
THOMAS E RUDE, 0000
NOEL * RUIZ, 0000
ROBERTO * RUIZ, 0000
CHARLES J * RUSSELL, 0000
MARK W * RUSSELL, 0000
PHILIP J RYAN, 0000
ROBERT W RYAN, 0000
SEAN P * RYAN, 0000
BRUCE A RYBA, 0000
RONALD L * RYDER, 0000
RANDI E * RZESZOT, 0000
THOR P * SADLER, 0000
FRANKLIN R SAFFEN, 0000
JUAN M SALDIVAR JR., 0000
CRAIG A * SALO, 0000
DANNY B SALTER, 0000
MARION A SALTERS, 0000
ANDREW K * SAMPSON, 0000
DAVID G * SANCHEZ, 0000
DAVID L SANDERS III, 0000
GREGORY E SANDERS, 0000
KENNETH J SANDERSON, 0000
HENRY SANTIAGOGONZALEZ, 0000
CHRISTOPHER N SANTOS, 0000
RONALD D SARGENT JR., 0000
ANTHONY J * SATTERFIELD, 0000
REID L SAWYER, 0000
PETER J SCAMMELL, 0000
WILLIAM M * SCHAUM JR., 0000
KENNETH W SCHEIDT, 0000
ARI J * SCHEIN, 0000
DOUGLAS A SCHENCK, 0000
RANDY D SCHLIEP, 0000
MICHELLE A SCHMIDT, 0000
CHRISTOPHER F SCHMITT, 0000
KARL K SCHNEIDER, 0000
KURT A SCHOSEK, 0000
ERIC D SCHOUREK, 0000
PATRICIA A * SCHREITER, 0000
PATRICK J SCHULER, 0000
JEROME P SCHULZ, 0000
TROY T * SCHULZ, 0000
JOHN W * SCHURTZ, 0000
MATTHEW M * SCHWIND, 0000
GERALD R SCOTT, 0000
CLAY A * SEABOLT, 0000
PHILIP M * SECRIST III, 0000
CHARLES E SEGARS, 0000
DAVID A SEGULIN, 0000
SUZANNE M SELF, 0000
BRADLEY L SELTZER, 0000
MICHAEL R * SEVERSON, 0000
BRYAN L * SHARTZER, 0000
GERALD W * SHAW, 0000
JEROME R * SHAY JR., 0000
THOMAS E SHEA, 0000
DAVID M * SHELLY, 0000
THOMAS R SHENK, 0000
KENNETH J SHEPPARD, 0000
TOMMIE L SHERRILL, 0000
AARON R * SHIELDS, 0000
ERIC P SHIRLEY, 0000
ALAN B SHOREY, 0000
CRAIG M * SHORT, 0000
PAUL D SHULER, 0000
PETER A * SICOLI, 0000
ANTHONY * SIEBER, 0000
JEREMY T SIEGRIST, 0000
MICHAEL J SIMMERING, 0000
DAVE W SIMMONS, 0000
JEREMY L SIMMONS, 0000
THOMAS N SIMONS JR., 0000
CHARLES D * SIMPSON JR., 0000
JAMES E * SIMPSON JR., 0000
MARK A * SIMPSON, 0000
JOHN A SINCLAIR, 0000
HARVINDER SINGH, 0000
MARK A SISCO, 0000
JAMES T * SKINNER, 0000
BRIAN D * SLACK, 0000
ZORN T * SLIMAN, 0000
STANLEY J SLIWINSKI JR., 0000
ERIC J SLOUGHFY, 0000
PHILLIP E SMALLWOOD, 0000
NOEL C SMART, 0000
ALPRENTICE SMITH, 0000
CATHERINE A SMITH, 0000
CHAD H * SMITH, 0000
CRYSTAL S SMITH, 0000
DARREN R SMITH, 0000
EDWARD S SMITH, 0000
FRANK H SMITH JR., 0000
GREGORY M * SMITH, 0000
HARVEY E SMITH, 0000
JAMES M * SMITH, 0000
JESSE W SMITH, 0000
KRISTIAN E * SMITH, 0000
RAYMOND P SMITH, 0000
STEPHEN M * SMITH, 0000
SYDNEY A * SMITH, 0000
REGINALD L SNELL, 0000
FRANK J * SNYDER, 0000
ROBERT SOBESKI, 0000
STEVEN J * SOIKA, 0000
GARY M * SOLDATO, 0000
DENA M * SONNEBORN, 0000
SYDNEY R * SONS JR., 0000
MICHAEL J SORRENTINO, 0000
MATTHEW V SOUSA, 0000
EVERETT S SPAIN, 0000
STEVEN J SPARLING, 0000
WILLIAM E SPARROW, 0000
GARY E * SPEAROW, 0000
MICHAEL R SPEARS, 0000
THOMAS M * SPENARD, 0000
COREY M SPENCER, 0000
JOHN F * SPENCER III, 0000
MARC A SPENCER, 0000
KATHRYN A SPLETSTOSER, 0000
ONGE D ST, 0000
GERALD J STALDER, 0000
CHARLES A * STAMM, 0000
THOMAS A * STAMP JR., 0000
FRANK J STANCO JR., 0000
MICHAEL L * STANDISH, 0000
JEFFERY W STANSFIELD, 0000
JEFFREY A STARKE, 0000
BRIAN L STEED, 0000
MICHAEL D * STEEN, 0000
JEFFERY D STEFFEN, 0000
CURT M * STEINAGEL, 0000
JAMES D * STEINHAGEN JR., 0000
KENNETH T * STEPHENS, 0000
JOEL R STEPHENSON, 0000
LARRY D * STEPHNEY, 0000
GEOFFREY T * STEWART, 0000
IAN K STEWART, 0000
JEFF R STEWART, 0000
JOYCE B * STEWART, 0000
SCOTT W * STEWART, 0000
WILLIAM D STEWART, 0000
WILLIAM L STEWART JR., 0000
TIMOTHY R STIANSEN, 0000
LAWRENCE R STILLER, 0000
CHARLENE P STINGER, 0000
NATHANIEL STINSON, 0000
STEVEN D * STOCK, 0000
GEOFFREY M STOKER, 0000
DANIEL L STONE, 0000
THOMAS W * STONE, 0000
DONALD W * STONER III, 0000
CHRISTOPHER G * STRACK, 0000
OLIN K * STRADER, 0000
JOHN J STRANGE JR., 0000
LANCE D STRATTON, 0000
JASON T STRICKLAND, 0000
THOMAS G STRICKLAND, 0000
SEAN P * STRITTMATTER, 0000
ERIC L * STRITZINGER, 0000
DARYL L STRONG, 0000
CHRISTIAN A SULIT, 0000
ANN L SUMMERS, 0000
CHAD R SUNDEM, 0000
GLEN E SUTTON, 0000
WALTER S * SUTTON, 0000
GARY H SWALVE, 0000
DESMOND D * SZCZEPANIK, 0000
CRAIG * TACKETT, 0000
JOHN F * TAFT, 0000
JOHN S * TAITANO JR., 0000
MUFUTAU A * TAIWO, 0000
FRANK F * TANK, 0000
ALBERT J * TAPP, 0000
ADAM R TASCA, 0000
RICHARD J TATE, 0000
GARY S TATRO, 0000
ERIC P TAUCH, 0000
CHRISTOPHER P * TAYLOR, 0000
DAVID G * TAYLOR, 0000
DAVID J TAYLOR, 0000
RALPH M * TAYLOR, 0000
ROSHAWNA A * TAYLOR, 0000
SCOTT L * TAYLOR, 0000
STEWART S * TAYLOR, 0000
WILLIAM G * TENNANT, 0000
WILLIAM L THIGPEN, 0000
ROBERT J * THOMAS, 0000
CHARLES E THOMPSON JR., 0000
JEFFERY B THOMPSON, 0000
ROSALYN * THOMPSONBLACKWELL, 0000
JAMES M THORNE, 0000
SCOTT N * THORPE, 0000
JOHN L THROCKMORTON III, 0000
PAMELA S TING, 0000
TODD L * TINIUS, 0000
AARON P TIPTON, 0000
KEVIN S TITUS, 0000
PAUL J * TODD, 0000
ELIZABETH L TOLLE, 0000
MATTHEW A TOLLE, 0000
LEE M * TONSMEIRE, 0000
PEDRO A * TORRES, 0000
RICARDO R TORRES, 0000
JOHN A * TOWNSEND JR., 0000
MILES E TOWNSEND, 0000
MICHAEL S TRACY, 0000
BART R TRAGEMANN, 0000
MICHAEL E TRAXLER, 0000
THOMAS B TREDWAY, 0000
BRIAN TRIBUS, 0000
ANTHONY C TRIFILETTI II, 0000
DAVID W TROTTER, 0000
MICHAEL N TROTTER, 0000
CLINTON A * TRUSSELL, 0000
COLIN P * TULEY, 0000
MICHAEL T TUNNELL, 0000
DENNIS M * TURNER, 0000
BRIAN F TUSON, 0000
JON M TUSSING, 0000
JANICE P * TUTT, 0000
PATRICK T TVRDIK, 0000
CURTIS L * TYGART, 0000
DIRK W * TYSON, 0000
ANDREW C ULRICH, 0000
PATRICK J * UNZICKER, 0000
JOSEPH M * URBANCZYK, 0000
LUIS A * URBINA, 0000
ELBERT D * VALENTINE, 0000
ROBERT H * VALIEANT, 0000
VINCENT C * VALLEY, 0000
ANUPOL P VAMASIRI, 0000
PRAXITELIS * VAMVAKIAS, 0000
KAN J VAN, 0000
POPPEL B VAN, 0000
REID E VANDERSCHAAF, 0000
MARK D VANHOUT, 0000
STEVEN G * VANRIPER, 0000
JACK E VANTRESS, 0000
MATTHEW J VANWAGENEN, 0000
CHARLES M VELESARIS, 0000
ANGEL L * VELEZ, 0000
MARK R VENO, 0000
GUILLERMO A * VENTURA, 0000
JUKKA P VERANEN, 0000
JONATHAN W VERNAU, 0000
ERIC D VERZOLA, 0000
WILLIAM T VIAR, 0000
ERIC L * VICKERY, 0000
GREGORY C * VIGGIANO, 0000
LISA C VINING, 0000
ROBERT A * VITT, 0000
SON P VO, 0000
DAVID R VOELKER, 0000
GLENN J VOELZ, 0000
RONALD S * VOLKIN, 0000
DALE L VOLKMAN, 0000
MENDEL D WADDELL, 0000
DOUGLAS J * WADDINGHAM, 0000
BRUCE J WADE, 0000
LAURA K WAGES, 0000
ALAN R * WAGNER, 0000
HUBERT T * WAGSTAFF II, 0000
ALLEN F * WALKER, 0000
ERIK J * WALKER, 0000
NATHANIEL F WALLACE, 0000
BRENT A * WALTER, 0000
CHRISTIAN J WALTERS, 0000
BRAD W WAMBEKE, 0000
FORTE D * WARD, 0000
JAMES E WARD, 0000
PAUL A WARMUSKERKEN, 0000
TIMOTHY A WARNER, 0000
EUGENE * WARREN, 0000
THOMAS E * WARREN JR., 0000
FLETCHER V WASHINGTON, 0000
CHRISTOPHER W WATERS, 0000
RAYMOND D * WEATHERFORD, 0000
KENT L WEBBER, 0000
ADOLPHUS * WEEMS III, 0000
JOHN W WEIDNER, 0000
KENNETH M WEILAND II, 0000
ERIC J WEIS, 0000
JOHN B WEISNER, 0000
TOMMY L WELDY JR., 0000

JOSEPH C WELLER, 0000
PATRICK J * WEMPE, 0000
RICK D * WESLER, 0000
DONALD A * WEYLER, 0000
FERNANDO L * WHEELER, 0000
RANDALL E WHEELER, 0000
JAMES D * WHITE JR., 0000
JEFFREY W WHITE, 0000
KEVIN S WHITE, 0000
TIMOTHY P * WHITE, 0000
MATTHEW R WHITEHEAD, 0000
JACKIELYN * WHITFIELD, 0000
SCOTT D WHITMAN, 0000
DAVID W WHITMIRE, 0000
CHARLES R * WHITSETT, 0000
ALAN A * WIERNICKI, 0000
EDWARD J * WIESSING, 0000
WALTER J WIGGINS, 0000
DAVID R WILDER, 0000
DEAN E * WILEY, 0000
DONALD B * WILHIDE, 0000
DON L WILLADSEN, 0000
ADRIAN D * WILLIAMS, 0000
ALFRED G WILLIAMS, 0000
DAVID G * WILLIAMS, 0000
GREGORY A WILLIAMS, 0000
HOPE F WILLIAMS, 0000
JEFFREY N WILLIAMS, 0000
JIMMIE L WILLIAMS JR., 0000
JOSEPH V * WILLIAMS, 0000
SCOTT T WILLIAMS, 0000
BOB E WILLIS JR., 0000
BRIAN D WILSON, 0000
BRET D * WILSON, 0000
BRIDGET A WILSON, 0000
DAVID N * WILSON, 0000
EDWARD C * WILSON, 0000
LINDA T * WILSON, 0000
ROBERT L * WILSON, 0000
SEAN E * WILSON, 0000
TROY S * WISDOM, 0000
TARPON S WISEMAN, 0000
CONRAD J * WISER, 0000
MARK A WITTE, 0000
ROBERT C * WITTIG, 0000
LARRY N WITTWER, 0000
KEVIN P WOLFLA, 0000
DEAN N WOLLAN, 0000
DONALD K * WOLS, 0000
DAVID B WOMACK, 0000
JASON A * WOODFORD, 0000
THOMAS E WOODIE, 0000
RICHARD F * WOODMAN, 0000
LAWRENCE K * WOODROW, 0000
GLENN W WOOLGAR, 0000
DONALD R WORDEN, 0000
ROBERT B * WORSHAM, 0000
CHARLES WORSHIM III, 0000
CARL J WORTHINGTON, 0000
BROADUS H * WRIGHT III, 0000
PATRICK T WRIGHT, 0000
CHRISTOPHER V * WYNDER, 0000
JOSEPH L WYSZYNSKI, 0000
SCOTT E * YAKOUBEK, 0000
BRIAN K * YEE, 0000
JON W YOUNG, 0000
ANDREW M ZACHERL, 0000
MICHAEL R ZELESKI, 0000
RICHARD L ZELLMANN, 0000
PAUL M ZEPS JR., 0000
PETER D ZIKE, 0000
TIMOTHY W * ZIMMERMAN, 0000
ROY F ZINSER III, 0000
THOMAS D * ZIVKOVIC, 0000
SCOTT M * ZNAMENACEK, 0000
X0000
X0000
X985
X0000
X0000
X0000
X122

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE TEMPORARY GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION:

To be major

BRENT A. HARRISON, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

EDWARD T. MOLDENHAUER, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate September 18, 2002:

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., SECTIONS 8036 AND 601:

To be lieutenant general

MAJ. GEN. GEORGE P. TAYLOR, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MARK R. ZAMZOW

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. PETER U. SUTTON

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:

To be lieutenant general

LT. GEN. NORTON A. SCHWARTZ

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:

To be lieutenant general

LT. GEN. RONALD E. KEYS

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:

To be lieutenant general

MAJ. GEN. CARROL H. CHANDLER

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL JAMES A. HASBARGEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CHARLES C. CAMPBELL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL CLINTON T. ANDERSON
COLONEL MICHAEL D. BARBERO
COLONEL VINCENT K. BROOKS
COLONEL SALVATORE F. CAMBRIA
COLONEL SAMUEL M. CANNON
COLONEL JAMES A. CERRONE
COLONEL ROBERT W. CONE
COLONEL ROBERT CREAR
COLONEL JOHN M. CUSTER III
COLONEL DAVID P. FRIDOVICH
COLONEL RUSSELL L. FRUTIGER
COLONEL WILLIAM T. GRISOLI
COLONEL CARTER F. HAM
COLONEL JEFFERY W. HAMMOND
COLONEL THOMAS M. JORDAN
COLONEL FRANCIS H. KEARNEY III
COLONEL DANIEL J. KEEFE
COLONEL STEPHEN R. LAYFIELD
COLONEL JOHN A. MACDONALD
COLONEL RICHARD L. MCCABE
COLONEL WILLIAM H. MCCOY, JR.
COLONEL MARVIN K. MCNAMARA
COLONEL JOHN W. MORGAN III
COLONEL STEPHEN D. MUNDT
COLONEL MICHAEL L. OATES
COLONEL MARK E. ONEILL
COLONEL JOSEPH E. ORR
COLONEL ROBERT M. RADIN
COLONEL JOSE D. RIOJAS
COLONEL CURTIS M. SCAPARROTTI
COLONEL MARK E. SCHEID
COLONEL JAMES H. SCHWITTERS
COLONEL JOHN F. SHORTAL
COLONEL JOSEPH A. SMITH
COLONEL MERDITH W. TEMPLE
COLONEL LOUIS W. WEBER
COLONEL SCOTT G. WEST

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. TIMOTHY M. HAAKE

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. GEORGE J. FLYNN
COL. JOHN F. KELLY
COL. MARYANN KRUSADOSSIN
COL. FRANK A. PANTER, JR.
COL. CHARLES S. PATTON
COL. MASTIN M. ROBESON
COL. TERRY G. ROBLING
COL. RICHARD T. TRYON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. EMERSON N. GARDNER, JR.
BRIG. GEN. RICHARD A. HUCK
BRIG. GEN. STEPHEN T. JOHNSON
BRIG. GEN. BRADLEY M. LOTT
BRIG. GEN. KEITH J. STALDER
BRIG. GEN. JOSEPH F. WEBER

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) DURET S. SMITH
REAR ADM. (LH) JERRY D. WEST

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) ROBERT M. CLARK
REAR ADM. (LH) JOHN R. HINES, JR.
REAR ADM. (LH) NOEL G. PRESTON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) LINDA J. BIRD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) RICHARD E. BROOKS
REAR ADM. (LH) EVAN M. CHANIK, JR.
REAR ADM. (LH) BARRY M. COSTELLO
REAR ADM. (LH) KIRKLAND H. DONALD
REAR ADM. (LH) MARK J. EDWARDS
REAR ADM. (LH) JOSEPH E. ENRIGHT
REAR ADM. (LH) JAMES B. GODWIN III
REAR ADM. (LH) JOHN M. KELLY
REAR ADM. (LH) MICHAEL G. MATHIS
REAR ADM. (LH) GEORGE E. MAYER
REAR ADM. (LH) JOHN G. MORGAN, JR.
REAR ADM. (LH) ERIC T. OLSON
REAR ADM. (LH) ANN E. RONDEAU
REAR ADM. (LH) FREDERIC R. RUEHE
REAR ADM. (LH) JOHN D. STUFFLEBEEM
REAR ADM. (LH) WILLIAM D. SULLIVAN
REAR ADM. (LH) GERALD L. TALBOT, JR.
REAR ADM. (LH) HAMLIN B. TALLENT
REAR ADM. (LH) JAMES M. ZORTMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. WILLIAM D. MASTERS, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. DAVID L. MASERANG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MARK D. HARNITCHEK
CAPT. MICHAEL S. ROESNER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPTAIN ROBERT J. COX
CAPTAIN DERWOOD C. CURTIS
CAPTAIN PETER H. DALY
CAPTAIN KENNETH W. DEUTSCH
CAPTAIN MARK T. EMERSON
CAPTAIN JEFFREY L. FOWLER
CAPTAIN JOHN S. GODLEWSKI
CAPTAIN GARRY E. HALL
CAPTAIN LEENDERT R. HERING
CAPTAIN ALAN B. HICKS
CAPTAIN DEBORAH A. LOEWER
CAPTAIN CARL V. MAUNEY
CAPTAIN WILLIAM J. MCCARTHY
CAPTAIN BERNARD J. MCCULLOUGH III
CAPTAIN MICHAEL H. MILLER
CAPTAIN ALLEN G. MYERS
CAPTAIN MARC L. PURCELL
CAPTAIN JAMES W. STEVENSON, JR.
CAPTAIN WILLIAM G. TIMME
CAPTAIN JOSEPH A. WALSH

CAPTAIN MELVIN WILLIAMS, JR.
CAPTAIN JAMES A. WINNEFELD, JR.

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:

To be vice admiral

REAR ADM. KEVIN P. GREEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE UNITED STATES NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

CAPT. JAMES E. MCPHERSON

AIR FORCE NOMINATIONS BEGINNING JOSEPH J. BALAS AND ENDING MARK C. WROBEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 27, 2002.

AIR FORCE NOMINATIONS BEGINNING MARY S. ARMOUR AND ENDING SHARON B. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 6, 2002.

AIR FORCE NOMINATIONS BEGINNING KEVIN D. BARON AND ENDING BRIAN J. WELSH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 6, 2002.

AIR FORCE NOMINATIONS BEGINNING SUSAN S. BAKER AND ENDING GILMER G. WESTON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2002.

AIR FORCE NOMINATIONS BEGINNING DEBRA A. * ADAMS AND ENDING JULIE F. * ZWIES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 31, 2002.

AIR FORCE NOMINATIONS BEGINNING NICOLA S. * ADAMS AND ENDING TAMBRA L. * YATES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 31, 2002.

AIR FORCE NOMINATIONS BEGINNING DONALD C. ALFANO AND ENDING DANIEL M. FLEMING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 2002.

AIR FORCE NOMINATIONS BEGINNING ROBERT W. BISHOP AND ENDING STEVEN K. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 2002.

AIR FORCE NOMINATIONS BEGINNING MATHEW J. BRAKORA AND ENDING STEPHEN D. WINEGARDNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 2002.

AIR FORCE NOMINATIONS BEGINNING TIMOTHY P. DESTIGTER AND ENDING SHELDON R. OMI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 2002.

AIR FORCE NOMINATION OF WILLIAM R. CHARBONNEAU.

AIR FORCE NOMINATIONS BEGINNING MARGARET H. BAIR AND ENDING PAUL E. MAGUIRE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 2002.

AIR FORCE NOMINATIONS BEGINNING JAMES P. ACLY AND ENDING JAMES R. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2002.

ARMY NOMINATIONS BEGINNING RALF C BEILHARDT AND ENDING RICHARD L WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2002.

ARMY NOMINATIONS BEGINNING MICHAEL P ABEL AND ENDING WESLEY G ZEGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2002.

ARMY NOMINATION OF KENNETH S. AZAROW.

ARMY NOMINATIONS BEGINNING OSCAR T * ARAUCO AND ENDING JOHN C * WHEATLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 31, 2002.

ARMY NOMINATION OF RICHARD A. REDD.

ARMY NOMINATION OF MARY C. CASEY.

ARMY NOMINATIONS BEGINNING DAVID P ACEVEDO AND ENDING EDWARD W ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 1, 2002.

ARMY NOMINATIONS BEGINNING JOSEPH M ADAMS AND ENDING JAMES A WORM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 1, 2002.

ARMY NOMINATIONS BEGINNING KIM J ANGLESEY AND ENDING ROBERT J ZOPPA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 1, 2002.

ARMY NOMINATIONS BEGINNING ANTHONY J ABATI AND ENDING X167, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 1, 2002.

ARMY NOMINATIONS BEGINNING WILLIAM C. DEVIRES AND ENDING PETER P. MCKEOWN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 2002.

MARINE CORPS NOMINATIONS BEGINNING A. D. KING, JR. AND ENDING RICHARD A. RATLIFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 16, 2002.

MARINE CORPS NOMINATION OF MARK A. KNOWLES.

MARINE CORPS NOMINATION OF GERALD M. FOREMAN II.

MARINE CORPS NOMINATION OF LEON M. DUDENHEFER.

MARINE CORPS NOMINATION OF SAMUEL B. GROVE.

NAVY NOMINATIONS BEGINNING MICHAEL L BLOUNT AND ENDING ROBERT P WALDEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 5, 2002.

NAVY NOMINATIONS BEGINNING RUFUS S ABERNETHY III AND ENDING JOAN M ZITTERKOPF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26, 2002.

NAVY NOMINATIONS BEGINNING VANESSA P AMBERS AND ENDING DOUGLAS M ZANDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2002.

NAVY NOMINATIONS BEGINNING AMADO F ABAYA AND ENDING MARK T ZWOLSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2002.

NAVY NOMINATION OF PAUL T. CAMARDELLA.

NAVY NOMINATION OF BRADLEY J. SMITH.

NAVY NOMINATION OF THERESA M. EVERETTE.

NAVY NOMINATION OF ANTHONY D. WEBER.

NAVY NOMINATIONS BEGINNING GUERRY H HAGINS AND ENDING MATTHEW A WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2002.

NAVY NOMINATIONS BEGINNING SCOTT A ANDERSON AND ENDING GWENDOLYN WILLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2002.

NAVY NOMINATIONS BEGINNING DOUGLAS P BARBER, JR. AND ENDING DOUGLAS R VELVEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2002.

NAVY NOMINATIONS BEGINNING PHILLIP M ADRIANO AND ENDING NEIL A ZLATNISKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2002.

NAVY NOMINATIONS BEGINNING KRISTIN ACQUAVELLA AND ENDING WILLIAM B ZABICKI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2002.

NAVY NOMINATIONS BEGINNING SUE A ADAMSON AND ENDING GEORGE A ZANGARO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2002.

NAVY NOMINATIONS BEGINNING CHRISTOPHER G ADAMS AND ENDING RA YOEUN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2002.