The House met at 10 a.m.
The Reverend Dr. K. Eric Perrin, Cornerstone Presbyterian Church, Columbia, South Carolina, offered the following prayer:
Almighty God, Father of all who love You, this Nation owes You our liberty. Your truth shaped our law. Generation after generation You delivered us from enemies. For Your goodness, receive our thanks.
Now we confront new terrors. Clouds of war rise on the Middle Eastern horizon. We need Your help. Yet in many ways we have forgotten You. We are confused as to who You are. We have difficulty discerning good from evil in our private lives. We are often unjust in our relationships, corrupt in our commerce, self-interested in our pursuits of the Nation's welfare.
Forgive us, Lord. Turn our hearts to seek You, our minds to know You, our wills to serve You. Guide the men and women of this honorable House. Bless the President of these United States. Aid those who defend us. Save us from our enemies. For Your goodness, receive our thanks.

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The Speaker. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed. The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The Speaker. Will the gentleman from Florida (Mr. Foley) come forward and lead the House in the Pledge of Allegiance.
Mr. Foley 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:
H.R. 4628. An act to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.
The message also announced that the Senate insists upon its amendment to the bill (H.R. 4628) "An Act to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Graham, Mr. Levin, Mr. Rockefeller, Mrs. Feinstein, Mr. Wyden, Mr. Durbin, Mr. Bayh, Mr. Edwards, Ms. Mikulski, Mr. Shelby, Mr. Kyl, Mr. Inhofe, Mr. Hatch, Mr. Roberts, Mr. DeWine, Mr. Thompson, and Mr. Lugar, to be the conferees on the part of the Senate.
The message also announced that the Senate has passed without amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

ANNOUNCEMENT BY THE SPEAKER

The Speaker. The gentleman from South Carolina (Mr. Wilson) is recognized for 1 minute; then there will be 15 1-minute speeches on each side.

WELCOMING REVEREND DR. K. ERIC PERRIN

(Mr. Wilson of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)
Mr. Wilson of South Carolina. Mr. Speaker, I am so pleased to welcome Pastor Rick Perrin from the Irmo community of South Carolina as our guest chaplain. Pastor Perrin has been the senior pastor of Cornerstone Presbyterian Church for 11 years. He has been married to Barb Perrin for 30 years, and they have three wonderful sons. Scott Perrin serves with the Secret Service in Georgia; Tim Perrin, who worked for my mentor and predecessor, Floyd Spence; and Chris Perrin, who now works for my colleague, the gentleman from Oklahoma (Mr. Watts).
Pastor Perrin started the Community Roundtable, a group of leaders who have come together to lead and deal with at-risk youth. He also started the Human Relations Committee to promote harmony with racial and demographic changes in the community.
Pastor Perrin is the chairman of the World Reform Fellowship which connects churches and ministry organizations around the world to build partnerships. Pastor Perrin has demonstrated consistent leadership over the years, and I count his family as friends.

It is a great honor for all South Carolinians to have Pastor Perrin perform the prayer today in the United States House of Representatives.

THE NEED FOR A HOMELAND SECURITY BILL

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY, Madam Speaker, I woke up this morning to a lot of noise on my TV set as two prominent Senators were berating the President of the United States, so I tuned in to listen and find out what all the fuss was about.

It turned out there was a concern echoed by the President that there is a national homeland security bill that left this Chamber in July. In July, we had promised the American public action on homeland security legislation before the anniversary of the terrorist attacks in New York, Washington and Pennsylvania on September 11.

So I thought to myself, why would our President, our Commander-in-Chief be outraged? Why would he be concerned, and why would we hear such volume from the Senate? Well, he is concerned about the life of every American living here in the United States who wants a safe homeland.

We passed our bill. I cannot urge action on the other body, it is prohibited by the rules of the House. But I would at least hope that the American people would speak out loud and clear about the need for a homeland security bill, about the need to protect our national security.

CODE ADAM ACT

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON, Madam Speaker, I rise today in support of the Code Adam Act. Code Adam is a proven, successful program that has saved lives in the retail environment. It is time to bring that same measure of safety to children in Federal buildings.

Since the Code Adam program began in 1994, it has been a powerful preventative tool against child abductions and lost children in more than 25,000 stores across the Nation. The House and Senate versions of the Code Adam Act would require the implementation of this protocol in all Federal buildings.

Wal-Mart started this fantastic program in the name of Adam Walsh, John and Revere Walsh’s son, who was abducted from a mall and murdered in Florida about 20 years ago. Every day I see children walking through the Halls of Congress and in Federal buildings back home in Texas. God forbid, if a child would go missing in one of these buildings, this bill would make sure that a plan was in place to secure that building and find the child before something deadly could occur.

Join me, the gentleman from Puerto Rico and many of our other colleagues in supporting this great piece of legislation.

URGING ACTION ON HOMELAND SECURITY

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana, Madam Speaker, we are at war. Homeland security legislation passed this body in July, as the gentleman from Florida (Mr. FOLEY) just mentioned, and yet the Senate has not acted.

He wanted it done before September 11, the anniversary of the tragedy that happened in New York, here in Washington, D.C. and in Pennsylvania, but the Senate has not acted.

It is almost October. We are about to get out of here, and the Senate has not acted.

The other body wants to give the President less authority over national security than any other agency of government, and that is wrong. He needs the tools to protect this country, and yet the Senate has not acted.

Let me just say to the leaders of the Senate who were raising Cain yesterday: Get on the ball, protect America, support our President, and protect all the people who want to be protected in this country. We do not need another attack of terror.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Members are to be reminded that they should not characterize inaction or action of the Senate.

ILL-CONCEIVED CUTS IN MEDICARE

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. CAPPS, Madam Speaker, seniors back at home have been waiting for years for Congress to pass a prescription drug benefit as part of Medicare. Each month, many choose between buying medications and paying rent. I am not exaggerating. They are desperate.

To make matters worse, many seniors were told by their doctors this year that they had to go somewhere else for care. This is because an arcane formula arbitrarily cuts the fees Medicare pays physicians. The administration says there was nothing they could do.

Now seniors in my district will be told they cannot get other health care, like a pacemaker or a pint of blood, because Medicare is cutting these rates also. And this time it is not because of some formula. The administration is actually doing this on purpose. This will hurt our already stretched seniors.

This will also get in the way of efforts to prepare for bioterrorism. Hospitals depend upon Medicare to help pay the bills. These cuts will mean our hospitals will be even more strapped for resources and less prepared.

I urge the administration to reject this ill-conceived idea and support our seniors, our doctors and our hospitals.

BANKRUPTCY REFORM BILL UNDERTMINED BY TAINTED AMENDMENT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS, Madam Speaker, some proponents of the current bankruptcy reform bill have claimed they want to stop violence. Well, we already know that fines and judgments for violent acts cannot be discharged in bankruptcy, so we have been arguing that the amendment added in conference committee is really out to stop peaceful, nonviolent protesters at abortion clinics.

Well, last week the Senator who wrote the amendment said on MNPR, and I quote, “They’d pay their fine and go back and stand in front of the clinic again. And they’d pay their fine and go back and stand again. They were taking the law into their own hands; in a peaceful way, but a very serious way, that led us to write the law.”

Well, there we have it, right from the horse’s mouth. Peaceful, pro-life protesters are the target of that amendment.

Madam Speaker, the current bill discriminates against pro-life Americans for no other reason than for what they believe. That is not right, not in America; and as much as I want to vote for bankruptcy reform, I cannot support the bill with this harmful language restricting first amendment rights of pro-lifers.

HONORING ALEXANDER LOPEZ FOR HIS APPOINTMENT TO THE CALIFORNIA STATE UNIVERSITY BOARD OF TRUSTEES

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)
Ms. SANCHEZ. Madam Speaker, I rise today to honor Alexander Lopez of Santa Ana.

Alex, a junior pursuing a Bachelor of Science Business Administration degree at California State University, Fullerton, has been appointed to one of the two student slots on the California State University Board of Trustees.

Student trustees are an important part of the governing body overseeing the 23-campus California State University system. They are responsible for creating policies, for hiring university presidents, and for representing the concerns of over 400,000 students in the California State University system.

I received a letter from Alex following a commencement address I gave at Cal State Fullerton this past year. He was all the things we hope our young people will grow to be: bright, ambitious, and compassionate. In addition to serving as the President of the student government, Alex is committed to advocacy programs that will help low-income and minority students attend college.

I am very proud of Alex for his achievement, and I wish him luck. I also wish we would take note of this and invest in education instead of war.

OVERSIGHT HEARING TO INVESTIGATE HESHAM HEDAYET

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Madam Speaker, as chairman of the Subcommittee on Immigration of the Committee on the Judiciary, I am scheduling an oversight hearing next week on the bizarre case of Hesham Hedayet. He is the Egyptian national who killed two people at the Los Angeles International Airport back on July 4.

After that incident happened, the press reported that this individual had applied for a green card and was denied, and then later, was granted a green card based on the diversity lottery that we have for programs that will help low-income and minority students attend college.

Later on, we got so worried about it that I issued a letter to the INS commissioner asking for full access to that Hedayet case file so that we could inquire into it. Madam Speaker, 2½ months later, we still have not received a reply and then, somehow, that became clear to the Attorney General that there were questions about this individual, and the Attorney General has asked the INS to clarify it.

We are going to have an oversight hearing next week to determine answers to all of the inquiries about this matter.

MORE MONEY FOR FIRE PREVENTION

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Madam Speaker, I rise today to talk about an incident that is occurring now in the San Gabriel Valley in California and that is the Williams fire. We just went through a very, very debilitating fire several weeks ago in the same area. Now the Williams fire is continuing to burn there without much success to put it out.

Every day we spend about a million dollars just to try to bring resources to put this out. The problem here, though, is that there is not enough money being put in for preventive measures, and that is the reason the national forest is but up against our communities. We have community development areas, we have housing, we have people that are going to be affected.

Madam Speaker, 44 structures have already been burned; and I can tell my colleagues right now that with the conditions in California, the drought, the fact that we do not have enough preventive measures going in to help with containment is a serious problem. We need to put more money into this area, because we cannot afford to lose houses and human life and not even to mention the habitat that will not be replaced. It is important for us to understand that.

Madam Speaker, I ask this House to help by considering providing more support for fire prevention.

HOMELAND SECURITY

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. Madam Speaker, time is of the essence. With national security on the minds of many Americans, I urge my colleagues to seize the opportunity and pass legislation to create the Department of Homeland Security.

Each day that passes without this coordinating effort is a day that America is vulnerable to the very people who attacked this country on September 11. Creating the Department of Homeland Security will send a resounding message to the world: America is stronger and safer than it was 12 months ago.

I applaud those who have put partisan agendas aside to do what is right for this country. An entire year has passed. Let us get our work done. Let us put an end to the politics and provide Americans with the safety they deserve.

A NOTE OF REMEMBRANCE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Madam Speaker, I rise this morning with a note of remembrance. Raymond Hall Hayworth, age 96, passed away peacefully yesterday. The last teammate of Ty Cobb has now left his earthly field.

Ray Hayworth wore a major league uniform in parts of 3 decades. His career spanned 13 years in the major leagues, first called up in 1926 to the Tigers.

For purposes of full disclosure, Madam Speaker, I should note that Ray Hayworth was my granddad; and the lessons he taught me, not only about sports, but about life, are lessons far more valuable than I can express on the floor of this House.

Our founders said they moved to secure the blessings of liberty for themselves and their posterity. In much the same way, my grandfather has left a legacy of freedom, as an athlete, as a role model, but, most of all, as a man. I was blessed for having his example to guide me.

SUPPORT H.R. 4600, THE HEALTH ACT

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Madam Speaker, the University of Nevada, Las Vegas, was forced to close its trauma unit after 57 of its surgeons quit because it was too expensive to carry trauma patients into the emergency room and not get lawyers in the courtroom. I urge my colleagues to support it.

HELP FOR FIGHTING FIRES

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, over the last several months we have seen the terrible fires that have hit Colorado, Arizona, New Mexico, Oregon, and other parts of the country. We are feeling the impact of the droughts. But now the fires have hit the Los Angeles area, and over the past several weeks we have had what was known as the Curve fire burn over 20,000 acres, and right now, the Williams fire, which started 5 o’clock Sunday afternoon, has hit the Angeles National Forest, the number one most-used national forest, national park in the country. We have had many structures damaged.

I would like to congratulate the President and thank him for the fact that we are going to, through the Federal Emergency Management Agency,
have reimbursement to those who are fighting the fire. I also want to say that our challenge will be dealing with reseeding which, as we face the rains that will hit come this winter, the mudslides can have an even more devastating impact.

Our thoughts and prayers are with those who are on the frontline fighting these fires, and we look forward to a quick resolution.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. DIAZ-BALART. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mrs. Biggert). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. DIAZ-BALART asked and was given permission to revise and extend his remarks.)

Mr. DIAZ-BALART. Madam Speaker, House Resolution 552 is a standard rule waiving all points of order against the conference report to accompany H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act and against its consideration.

It has been over 20 years since Congress last authorized appropriations for the Department of Justice. This conference report that we are preparing to consider takes an important step in putting our mark on the vital justice programs and funding levels that we have addressed solely through appropriations, since the 96th Congress. This conference report is a product of a careful deliberative, bipartisan process. Every member of the conference committee, Republican and Democrat, House and Senate, has signed the conference report.

I believe that all of the conferees, especially the gentleman from Wisconsin (Mr. CONYERS) and the gentleman from Michigan (Mr. CONyers), the ranking member, should be commended for their work.

The conference report establishes fundamental and budgetary administrative authorities that simplify, harmonize, and clarify over 2 decades of statutory authorities. Few times in our national history has it been so important that we update and provide direction to the Department of Justice. The conference report helps the Department of Justice to adjust to the new century and the new challenges facing America. As President Bush has noted, "We are today a Nation at risk to a new and changing threat." The Department of Justice has played and obviously will continue to play a very important, a pivotal role, in securing our Nation against the possibility of terrorist attacks.

Importantly, the conference report also reasserts congressional oversight of the Department. The administration has gone to extraordinary lengths to secure the Nation, while respecting the free and open society which we are privileged to live in.

Nevertheless, Congress is designed to serve as a check on the actions of the executive branch, to oversee the executive branch, that is obviously as fundamental a role for Congress as is legislating; and this conference report reaffirms our oversight responsibility.

This conference report is not by any means limited to the streamlining and strengthening of the Department of Justice's law enforcement responsibility or congressional oversight of its actions.

The conference report provides 94 additional U.S. Attorneys to work with State and local law enforcement to enforce existing Federal laws, firearms laws, for example, especially in and around schools.

The conference report also provides eight new Federal judgeships in the State of Florida. Also in my State and that of the gentleman from Florida (Mr. HASTINGS), it creates a new temporary Federal District Court judgeship for the Southern District to ease the extraordinary burden on our Federal courts.

The conference report provides an increase in funds for the Boys and Girls Club, which will allow them to increase outreach efforts and increase membership throughout the Nation. I think it is also worth a commendation that the conference report establishes a permanent, separate, and independent Violence Against Women Office in the Department of Justice. The office will be headed by a director who reports directly to the Attorney General and has final authority over all grants and cooperative agreements and contracts awarded by the office.

The conference report contains important provisions regarding drug abuse prevention and treatment, safeguarding the integrity of the criminal justice system, and providing for the enactment of juvenile justice and delinquency prevention legislation.

Madam Speaker, the conference report before us I believe is an extremely important piece of bipartisan legislation that will serve the Nation in innumerable ways.

The conference report, and I believe that it was obviously provided for its consideration, deserves our support. Accordingly, I urge all of my colleagues to support this rule and this very important underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.


As my colleagues know, H.R. 2215 passed the House of Representatives in July, 2001, by a voice vote. I am quite certain that my colleagues will join us today and approve the conference report in an overwhelming way again.

Madam Speaker, while sitting in the Committee on Rules yesterday afternoon, and in reviewing the conference report, I am in true admiration of the bipartisanship that was shown by the committee's chairman, the gentleman from Wisconsin (Mr. SENSENBRNNER), and the ranking member, the gentleman from Michigan (Mr. CONYERS), I applaud the bipartisanship that the two of them showed while working on this report, and thank the conferees for their inclusion of many Democratic amendments.

As the House works on a variety of contentious issues in the coming days, I urge my colleagues to heed the bipartisan lessons of the chairman and ranking Democrat of the Committee on the Judiciary.

Many Members of the House were here this morning and spoke about the words that are being slung around on homeland security, and faulting the other body for delays in that regard. I would remind my colleagues that we have not completed the appropriations process, and all of us need to be about that business.

Madam Speaker, H.R. 2215 authorizes funding to the Department of Justice for the current fiscal year and the following one, which begins next Tuesday. In addition to authorizing dollars to strengthen the Department for the war on terrorism and a possible war on terrorism and a possible
war with Iraq, we cannot and should not forget a war that we have been fighting for more than three decades: the war on drugs.

As we seek to stabilize Afghanistan, we cannot and should not forget that prior to the Taliban rule, Afghanistan was one of the world’s largest producers of poppy, an integral ingredient of heroin. Thus, economic stability in this renewed democracy must provide alternate means of income to Afghans who once depended on poppy sales for a living.

Further, we cannot and should not forget that the war on drugs has no definitive end. The dollars authorized in this bill, albeit limited, serve as Congress’ continued commitment to fighting the war on drugs. I do, however, urge the authorizing committee to increase spending for this fight in the coming years. In my lifetime in South Florida I have seen hundreds of lives ruined and ended because of drugs. We cannot allow this trend to continue into the 21st century.

Madam Speaker, in addition to authorizing funding for the war on drugs, this legislation also funds the Immigration and Naturalization Service, an agency that my office works with every day. Nearly 30 percent of everything we do in the Fort Lauderdale office deals with immigration.

While Congress continues to address the obvious shortcomings of this poorly funded, understaffed, and overworked agency, the United States remains a Nation created by immigrants. Those who enter our borders legally and pose no threat to our security should be afforded equal opportunity to excel and prosper. They should enjoy the benefits that those of us born here take for granted.

To many, the United States remains a land where the streets are paved with gold. It is those we let in legally, not those we do not, who will help us extend this street of gold to the rest of the world.

Finally, among many things, the conference report also establishes a National Violence Against Women Office. This is a plan that I and many of the Members have supported for years. Domestic violence remains a disgusting reality in our society, and the establishment of this office is a step in the right direction toward protecting women and punishing those who believe it is an acceptable practice.

Madam Speaker, the Department of Justice should always be America’s voice of justice. Though I do not always agree with its policies today, or its practices, I do agree with its charter.

This conference report is a good one, and so is the rule. I urge my colleagues to support both of them.

Additionally, prior to the consideration of the rule, my good friend from Pennsylvania, Mr. HOLDEN, will make a motion for the previous question. I ask my colleagues to consider his motion, as well.

Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 552.

Mr. DIAZ-BALART. Mr. HASTINGS of Florida. Madam Speaker, I am more than pleased to yield such time as he may consume to my good friend, the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Madam Speaker, I thank the gentleman for yielding time to me.

At the conclusion of this debate, I will seek to defeat the previous question on this rule. If the previous question is defeated, I will then offer an amendment to the rule that will instruct the Enrolling Clerk to add the conference language to permanently extend Chapter 12 bankruptcy protections for family farmers.

This is not a proposal that should be considered controversial. In fact, this House has voted overwhelmingly three times in the last 18 months to extend these bankruptcy protections for family farmers.

Chapter 12 was enacted in 1986 as a temporary measure to allow family farmers to repay their debts according to a plan under court supervision. It prevents a situation where a few bad crop years lead to the loss of the family farm.

In the absence of Chapter 12, farmers are forced to file for bankruptcy relief under the Bankruptcy Code’s other alternatives, none of which work quite as well for farmers as Chapter 12. Chapter 11, for example, will require a farmer to sell the family farm to pay the claims of creditors. How can a farmer be expected to come up with the money needed to buy out his farm? Chapter 11 is an expensive process that does not accommodate the special needs of farmers.

Since its creation, Chapter 12, family farmer bankruptcy protection, has been renewed regularly by Congress and has never been controversial. In 1997, the National Bankruptcy Review Commission recommended that Chapter 12 be made permanent.

In this Congress, H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001, includes a provision that permanently extends Chapter 12. Just like previous versions of this bill in previous Congresses, H.R. 333 is a bill plagued with controversy and a bill whose passage is an uncertainty, at best.

For 5 years now, family farmers have been held hostage by the contentious debate surrounding the larger bankruptcy issue. For 5 years, they have been made to sit on pins and needles waiting to see if Congress will extend these protections for another 11 months, 4 months, 8 months, or whatever length of time we feel it will take us for the next legislative hurdle on the larger bankruptcy issue.

Madam Speaker, family farmers have waited long enough. The games must stop. Right now, family farmers are making plans to borrow money based on next year’s expected harvest in order to be able to buy the seeds needed to plant the crops for that harvest. As these farmers leverage themselves, they need to have the assurance that Chapter 12 family farmer bankruptcy protection provisions are going to be there for them on a long-term basis. Sporadic and temporary extensions do not do the job.

Attaching Chapter 12 bankruptcy protections for family farmers to the Department of Justice authorization conference report will give farmers the kind of protections they desperately need, the kind of protections we have already voted three times in the 107th Congress.

On February 21, 2001, we voted 408 to 2 to retroactively extend Chapter 12 for 11 months. On June 6, 2001, we voted 411 to 1 to extend Chapter 12 for an additional 4 months. Most recently, on April 16 of this year, 232 to 193 to extend Chapter 12 for yet another 8 months. So Members can see, extending Chapter 12 by no means is a controversial idea.

Madam Speaker, Chapter 12 is scheduled to expire at the end of this year. If we do nothing today, Members of the House will be home in their districts enjoying the holidays with their families while once again family farmers are put at risk. Let us end this cliffhanger once and for all. Let us give family farmers the assurance of permanent protection they deserve and close this chapter for good.

Members should understand that a no vote will not stop the House from considering and approving this conference report, but it will allow us to extend it once and for all, and provide the permanent extension of Chapter 12 family farmer bankruptcy protection that farmers so desperately need. However, a yes vote on the previous question will prevent the House from adding this noncontroversial farmer-friendly provision.

I urge all my colleagues to be consistent with their three earlier votes in this Congress and vote no on the previous question.

Madam Speaker, I ask unanimous consent that the text of this amendment be printed in the Record immediately before the vote on the previous question.

Mr. DIAZ-BALART. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREEBER), the distinguished chairman of the Committee on Rules.

Mr. DREEBER. Madam Speaker, I thank my dear friend, the gentleman from Miami, Florida, for yielding me this time.
Madam Speaker, I rise in strong support of both this rule and the Department of Justice conference report. It has been over two decades, 22 years to be precise, since we have actually had a Department of Justice authorization bill. This has been done through the appropriations process in the past.

I believe that if we look at the issues that the Committee on the Judiciary and others involved in this process have been able to address, I believe that it is a very, very good measure.

We have aubenous problems with overburdened courts because of drug cases. I am very pleased that the State of California, and specifically southern California, will be benefiting from five new judgeships for southern California, six overall for the State of California. I believe that that will go a long way towards dealing with the challenge that we have of our overburdened court system in California.

Another issue that has an impact on California that is included in this measure, which is not California-specific, however, is the very balanced approach to the H-1B visa program. We know that as we deal with the challenges of the 21st century economy, Madam Speaker, one of the problems that we have had is the inability to get the best expertise possible for our high-tech sector of the economy, and other sectors, quite frankly.

The fact that we have had a bureaucracy dealing with this has been a challenge, but I am pleased that through legislation that we have been able to get through in the past, we have been able to increase the number of H-1B visas. It was the high-skilled workers who have been able to come in and who filled this need so that the United States of America can remain on the cutting edge technologically.

There has been, as I said, a bureaucratic mess that has existed for some time. And so in this conference report we see the inclusion of a 1-year period, a grace period which will allow for those who have been able to come in and who have been in farming. Now milk prices have remained low for most of the time he has been in farming. He sells 70 cows a day. He has been farming like his dad before him most of his life. He milks 70 cows to make his living. Milk prices have remained low for most of the time he has been in farming. Now milk prices are again reaching historic lows. He cannot stay in business because he is losing money every day. He is scared he is going to lose his farm to his creditors and let his whole family down.

Madam Speaker, let us amend this rule right now so we can take up my bill, H.R. 5348, and give all our family farmers and our family fishermen another chance to reorganize their debts and keep their farms or fishing operations in their families. I urge my colleagues to defeat the previous question on the rule so that we can take immediate action to protect our Nation’s family farmers and family fishermen. The gentleman from Pennsylvania (Mr. HOLLEN), the gentleman from Illinois (Mr. PHELPS), the gentleman from Massachusetts (Mr. DELAHUNT), and I have introduced H.R. 5348 to permanently extend Chapter 12 bankruptcy protection. It is long past time for us to do so.

Madam Speaker, it is increasingly evident that we will not see comprehensive bankruptcy reform this session. As in the last 5 years, it has stalled. Whatever one thinks of the merit of that bill, we have broad agreement of making Chapter 12 farmer and fishermen protection permanent as a good idea and good public policy. By defeating the previous question today, we can consider this important question now.

During this current session of Congress, we have extended Chapter 12 bankruptcy three times, most recently as part of the farm bill. It is now due to expire again at the end of this year. The next 2 weeks may be our final chance to renew it before it expires once again, and we should do that today.

Madam Speaker, it is time to stop waiting for the bankruptcy protection needed to support for the comprehensive bankruptcy reform bill. It is time to protect our family farmers.

A farmer who has a dairy farm in Belleville, Wisconsin, in my district contacted me recently about this issue. He has been farming like his dad before him most of his life. He sells 70 cows a day to make his living. Milk prices have remained low for most of the time he has been in farming. Now milk prices are again reaching historic lows. He cannot stay in business because he is losing money every day. He is scared he is going to lose his farm to his creditors and let his whole family down.

Madam Speaker, let us amend this rule right now so we can take up my bill, H.R. 5348, and give all our family farmers and our family fishermen another chance to reorganize their debts and keep their farms or fishing operations in their families. I urge my colleagues to defeat the previous question and support this bill.

Madam Speaker, I yield 3 minutes to my good friend, the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I rise today in support of this rule and adoption of the conference report on H.R. 2215, the Department of Justice Appropriations Authorization Act. I am pleased to report that after more than 6 years of working on legislation to reauthorize the Juvenile Justice and Delinquency Prevention Act, we finally have a real opportunity for reauthorization of the act to become a reality.

This conference report includes the language embodied in H.R. 1900, my legislation, which overwhelmingly passed the House a year ago on September 20 of last year.

The Office of Juvenile Justice and Delinquency Prevention was created by Congress in 1974 to help communities and States prevent and control delinquency and to improve their juvenile justice systems. This office has not been reauthorized since 1994, although a similar bill has passed the Congress by overwhelming margins twice since then.

The nature and extent of juvenile delinquency has changed considerably since the office was created, and this reauthorization has taken that into account. It is an extraordinarily difficult task to create a juvenile justice system in each of the States and each of the counties that can respond to the very different young people in our society who get caught up in the law and I believe that this bipartisan bill represents good policy.

The bill successfully strikes a balance, finding children who grow up and come before the juvenile justice system who are already very vicious and dangerous criminals, and other children who come before the juvenile justice system who are harmless and scared and running away from abuse at home.

The legislation is designed to assist States and local communities to develop strategies to combat juvenile crime through a wide range of prevention and intervention programs. We acknowledge that most successful solutions to juvenile crime are developed at the State and local level of government. Many individuals who understand the unique characteristics of their area who can respond to the very, very different young people in our society who get caught up in the law. But we must act to prevent and control delinquency.

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Education and the Workforce, the gentleman from Michigan (Mr. HOEKSTRA); and the ranking member, the gentleman from Indiana (Mr. ROEMER), for their valued assistance in guiding the legislation through committee. Finally, a special thank you to the ranking member of the Judiciary, the gentleman from Wisconsin (Mr. SENSENBIJNENEN), and the ranking member, the gentleman from Michigan (Mr. CONYERS), for their willingness to work with us to include this bill in the H.R. 2237 package.

Madam Speaker, I also want to thank my legislative director, Judy Borger, who has lived this thing for many, many years and who has done yeoman’s work for both committees. I urge all my colleagues to join me in supporting the rule.

Mr. HASTINGS of Florida. Madam Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my good friend. (Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, I want to thank the distinguished gentleman from Florida (Mr. HASTINGS) for his leadership, but as well his yielding me time. I rise to acknowledge the very hard work that was done on this legislation and to suggest that we have made strides. Particularly, I note that as the ranking member on the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, I think the fact that we have kept the H-1B’s responsive, those visas, in light of September 11 when many people will equate immigration issues to terrorism, that is not the case. And I think it is important that we allow talented individuals to be able to come into this country and share their talents. And certainly we want to make sure that all Americans have the same access to technology and computer knowledge and software knowledge, but it is important to have this talent. So I applaud the legislation, therefore the rule, of this particular initiative because that is in it.

Likewise, let me acknowledge, as my colleague from Pennsylvania (Mr. GREENWOOD) just noted, the sequences for juvenile offenders, a bill that I was very happy to support, that was worked on and co-sponsored by the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Virginia (Mr. SCOTT), came through the Subcommittee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary. And I must say that this is an important statement for our young people, that our young people are not throw-aways, that they can be rehabilitated. And many people will tell you they are our future. I tell you that juveniles, young people, young people, young people in middle schools and high schools around America are our today. And it is important to realize that if we incarcerate and lock up a youngster in their teenage years, we are only perpetrating their ways of violence and ill acts. And it is very important that we have these rehabilitative measures, we intervene and it is a very important point. I would like to acknowledge, as well, the importance of violence against women’s office. We stabilized it, if you will, allowed it to be free-standing, and supported it by funding; and I believe that is extremely important.

But I believe, Madam Speaker, that we have some concern some more work that could have been done and that is my dilemma today as we come forward. We could have passed 245i that again reinforces family reunification with those who are in this country or seeking to reunite their families who happen to be immigrants. Just this past week I faced a very troubling situation in my own district where nine members of a Palestinian family were about to be deported and not looking for asylum or relief. One of them having come to this country from a tumultuous region seeking asylum and yet not being able to do so. We were able to provide some remedy for them, and they had a 9-year-old citizen, their daughter who was born in this country; but because she was not of the age of majority, she could not petition for their relief. So we have these problems. We did not do anything in this legislation on that.

We did not fix 1996 immigration laws to keep families together so we do not have these large numbers of individuals being deported to places they have never lived. I believe we should have looked at trying to fix that. And the same thing with the comprehensive immigration bill that I and the gentleman from Michigan (Mr. CONYERS) have authored. It fixes the immigration system in its totality. It recognizes that we must be safe but at the same time it fixes some of the major loopholes that we have in our immigration system.

I believe, Madam Speaker, as well we have not done ourselves proud by not including the hate crimes legislation that has 206 sponsors so that we would have to result to a discharge petition to try to get that on the floor of the House. How much more do Members have to say when 206 Members believe that we should get rid of hate crimes and hate laws against it, legislation authored by the gentleman from Michigan (Mr. CONYERS); and yet we cannot get that to the floor of the House. This should have been included in this legislation.

I am glad to see that we did not codify the TIPS program, neighbors spying on neighbors. Yes, we believe in the security of this Nation, but I also believe Americans believe in civil liberties. I am glad that that is not in this legislation.

Let me conclude, Madam Speaker, on this point, and that is the civil rights office that I believe certainly there are good intentions there but there are issues of police brutality around this Nation. In fact, in my own district we have some incidents of a Hispanic being shot in the back and the medical examiner declared it was a homicide and no action was taken against any of those involved in this case. Another African-American shot in the back, unarmed and no action taken against law enforcement.

I am a supporter of law enforcement, but I am supportive of law. And I believe the civil rights division should be incorporated with funding and they should be utilized for what they are utilized for regardless of whether it is a Republican or Democratic administration.

School desegregation orders. I represent a district that is now trying to get rid of their school desegregation order, and they still have the same violations. The Justice Department should not be engaged in being on the side of a school district that is fighting to get rid of the desegregation order when they are still failing our children.

These problems should be addressed in this legislation and more funding should be given to the civil rights division in order to fix these problems. I believe this is a good piece of legislation, but we could have done more.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, in closing I will invite the Members’ attention to the matter discussed earlier by the gentleman from Pennsylvania (Mr. HOLDEN). Defeating the previous question as proposed by the gentleman will allow us to permanently extend Chapter 12 protection for farmers. The House has already voted on three separate occasions in this Congress to extend these bankruptcy protections for farmers. Sporadic and temporary extensions leave farmers uncertain of their future. Even as they face record droughts, and the gentleman from Montana (Mr. REHBERG) from the other side and I have a drought bill that a substantial number of Members have joined on that we consider critical for our Nation’s farmers, and when they experience poor harvest in many regions of the country.

In the absence of Chapter 12, farmers are forced to file bankruptcy under much less favorable terms. Permanent extension as proposed by the gentleman from Pennsylvania (Mr. HOLDEN) will ease these pressures. I ask our membership to defeat the previous question.

Madam Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART of Florida. Madam Speaker, I want to reiterate my support, strong support for this rule and the underlying legislation. It is very important that we vote. It has been over 20 years since we have in effect authorized the needed expenditures of the Department of Justice, and so I urge,
again, support for the rule and the underly- ing measure.

Mr. HELPS. Mr. Speaker, I rise today to move to defeat the previous question on H.R. 2215—Department of Justice Authorization Conference Report. I am very disappointed that this provision of Chapter 12 of the Federal Bankruptcy Code was not included in this legislation.

Mr. Speaker, Chapter 12 of the Federal Bankruptcy Code gives farmers much needed bankruptcy protections. This is an issue I have been working on for some time now and was disappointed to see it was not included in this conference report. On April 10th, I offered a motion to instruct Conferences on the Farm Bill which asked conferences to accept language in the Senate Bill that would make Chapter 12 of the Bankruptcy Code permanent. My motion passed overwhelmingly, but was not included in the final version of the bill.

H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001 includes a permanent extension of Chapter 12, but like its predecessor in previous Congresses, H.R. 333 is a bill whose passage is uncertain. Since 1997, farmers have been told to wait for the Bankruptcy Reform Act to pass and they would be protected forever. For five years, farmers have been told this is happening. Farmers have waited too long and need protection now.

Including a permanent extension of Chapter 12 in the DOJ Authorization Conference Report would have given farmers the kind of family farmer bankruptcy protections, on a permanent basis, that we have already voted for three times this Congress. As farmers harvest their crops for this year, they will soon have to borrow against next year’s harvest to plant next year’s crops. They need to know that the legal protections Congress enacted in 1996 will be there for them if something goes wrong. Unfortunately, they have seen Congress let Chapter 12 lapse several times in the last five years and, despite repeated promises, no permanent relief is in sight. The inability to plan and acquire necessary inputs they can save their family farm . . . especially in these uncertain times . . . is devastating.

I do not think that there is any controversy whatsoever that Chapter 12 works well, that it protects our family farmers who are in distress, and that it preserves the family farm. Whatsoever that Chapter 12 works well, that it protects our family farmers who are in distress, and that it preserves the family farm.

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to make payments under a plan under chapter 12 of this title”.

(2) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting—

“in the chapter heading, by inserting “OR FISHERMEN” after “FAMILY FARMER”;

“in section 109(f), after “or family fisherman”;

“in section 109(f), after “, not voting 25, as follows:”;

“in section 1203, by inserting “or commercial fishing operation” after “farm”;

“in section 1206, by striking “if the property is farmland or farm equipment” and inserting “if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)”;

(4) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

“12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income .......... 1201”.

(5) APPLICABILITY.—Nothing in this subsection shall affect, or amend the Fish and Wildlife Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(i) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

Mr. DIAZ-BALART. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The resolution was agreed to. A motion to reconsider was laid on the table.
MOTION TO INSTRUCT CONFEREES ON H.R. 2295, HELP AMERICA VOTE ACT OF 2001

The SPEAKER pro tempore (Mrs. BIGGERT). The unfinished business is the question on the motion to instruct conferees on H.R. 2295.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Ms. EDDIE BERNICE JOHNSON) on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 383, nays 16, not voting 31, as follows:

[YEAR]—YEAHS—985

[ROLL NO. 418]

So the Journal was approved.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mrs. BIGGERT). The unfinished business is the question on the motion to instruct conferees on H.R. 2295.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

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This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 383, nays 16, not voting 31, as follows:
considered as adopted. The previous question Rules accompanying this resolution shall be printed in the report of the Committee on

In lieu of the amendments recommended by the House the bill (H.R. 4600) to improve pa-

resolution it shall be in order without inter-

call up House Resolution 553 and ask

HELP EFFICIENT, ACCESSIBLE, Low Cost, Timely HEALTH CARE ACT OF 2002

Mr. REYNOLDS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 553 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 553

Resolved, That upon the adoption of this resolution it shall be in order without inter-

vention of any point of order to consider in the House the bill (H.R. 4600) to improve pa-

patient access to health care services and provide improved medical care by reducing the exces-

sive burden the liability system places on the health care delivery system. The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committees on the Judiciary and on Energy and Commerce now printed in the bill, the amendment in the nature of a substitute printed in the statement of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without inter-

vention motion except: (1) one hour of debate on the bill, as amended, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without in-

structions.

The SPEAKER pro tempore (Mrs. Biggert). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

(Mr. REYNOLDS asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Madam Speaker, when it comes to health care, there is nothing more hal-

lowed than the quality of patient care and the integrity of patient choice. However, there is an unfortunate and rising trend in our country that is not only threatening patient care and choice, but is obstructing the way in which doctors and other providers ad-

minister that care, and it is collec-

tively costing patients, their families, doctors and taxpayers billions of dol-

In recent years, medical liability in-

surance premiums have soared to the highest rates since the mid-1980s. These devas-

tating increases have forced health care professionals to limit serv-

ices, relocate their practices, or retire early. Meanwhile, affordability and availability of insurance is in grave jeopardy, and, in the end, patients are the ones shortchanged.

One might assume that the generous lawsuit judgment awards and settle-

ments would bode well for injured pa-

ents seeking redress. However, studies show that most injured patients re-

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tice medicine and patients should not be afraid of losing their doctor.

Madam Speaker, right now this crisis is affecting every State in its own way, but the Nation as a whole is suffering. President Bush has said that the law-

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as above recorded.

Mr. DUNCAN changed his vote from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on

The SPEAKER pro tempore (Mrs. Biggert). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

(Mr. REYNOLDS asked and was given permission to revise and extend his remarks.)

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tice medicine and patients should not be afraid of losing their doctor.
Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank my friend the gentleman from New York (Mr. REYNOLDS) for yielding me time.

Madam Speaker, I rise today in strong opposition to the closed rule for H.R. 4600. This is an extremely complex piece of legislation and certainly one that requires a full and open debate. The closed rule denies us a much-needed opportunity to discuss its pros and cons.

To start, I have received, as I am sure other Members have, a number of phone calls from physicians in the district that I am privileged to serve urging me to support this legislation. Most of them expressed their readiness to close their doors because of the high premiums they currently pay for malpractice insurance and erroneously, in my judgment, believe that H.R. 4600 will relieve them of high malpractice insurance premiums.

There is no question that medical liability insurance rates are out of control and doctors, as well as other health care providers, often abandon high-risk patients for fear of being sued. Many, if not all, of the physicians who have called my office fail to realize that H.R. 4600 will not lower doctors’ premiums.

Despite a wide consensus, skyrocketing premiums are not due to bad politics. Hiked premiums are the result of insurers’ failed profits on their market investments. When insurance companies began to make sound investments with the insured’s money, and when our friends on the other side of the aisle allow an open rule so sensible amendments from Democrats and Republicans can be heard, then and only then will premiums be lowered.

The fact is, this bill would restrict the amount of money that malpractice insurance companies will have to pay. But nowhere in this legislation, and I invite my colleagues on the other side to point to the place, nowhere in this legislation are any of these savings going to be passed along to physicians.

Had this been an open rule, we could offer amendments similar to that of my colleague the gentleman from Massachusetts (Mr. MARKEY) that would require savings realized by the insurers as a result of the $250,000 cap be passed on to health care providers in the form of lower premiums. There are other Members who are going to speak here that had this been an open rule, their amendments would have been included as well.

Medical malpractice is the fifth leading cause of death in the United States, where an estimated 98,000 people die annually in United States hospitals because of negligent medical errors. The medical malpractice system is important because it compensates victims injured by negligence, deters future medical misconduct, punishes those who cause injury and death through negligence and removes and informs the public of harmful products and practices.

While a $250,000 cap on punitive and non-economic damages may suffice for the men and women on the other side of the aisle, my constituents and all Americans deserve more. This is a one-size-fits-all bureaucratic approach that objectifies victims and the uniqueness of their suffering.

I told the story yesterday of my grandmother’s death. In the “halcyon” days of segregation, when she died at the hands of a physician, we could not sue for the reason we were black. That is not the issue here. But I can tell you this, there was no price that anybody could have put on my grandmother, and there is no price that anybody can put on your sister or your brother, whether you are a doctor or a lawyer or an insurer.

This bill sends a clear and distinct message that lawmakers are more concerned with abating insurance companies’ malpractice problems instead of reducing the pain and suffering of the American people.

Let us call this bill what it really is, and that is another poor attempt by my friends on the other side to give financial breaks to their corporate friends. One would think that they would learn from previous incidents of corporate mishaps; but I guess, Madam Speaker, some things never change.

Madam Speaker, H.R. 4600 is a health care immunity act that benefits insurance companies, HMOs, manufacturers and distributors of defective products and pharmaceutical companies, not physicians. It is a tort reform effort of the worst kind. Stunting the judicial process by disallowing the public to litigate unrestricted malpractice suits is not only biased, but it is un-American. I am in strong opposition to this measure. I urge a “no” vote on the rule and the underlying bill.

Madam Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Madam Speaker, I yield myself such time as I may consume.

Nothing in the HEALTH act denies injured plaintiffs the ability to obtain adequate redress, including compensation for 100 percent of their economic losses, their medical costs, their lost wages, their future lost wages, rehabs, other income, other intangible items. When we look at health care, the reality is, and CBO estimates, that under this bill premiums of medical malpractice ultimately will be on an average of 25 to 30 percent below what they would be under the current state of law.

Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. COX).
Madam Speaker, I urge the enactment of this rule and passage of the legislation.

Mr. HASTINGS of Florida. Madam Speaker, I am very pleased to challenge the able liesman from Pennsylvania (Mr. HOEFFEL), my good friend.

Mr. HOEFFEL. Madam Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue.

The doctors in my district in Montgomery County, Pennsylvania, and all in the Philadelphia area, face a financial crisis, the same as many doctors around the country, as we have heard here today. This bill will not solve their crisis. This bill does not reflect a comprehensive effort to solve the medical malpractice crisis that we face in southeastern Pennsylvania and across many parts of the country. Nobody wants a compromise. Nobody wants to come together in a reasonable way to find a middle ground. That has happened at various State levels, but it is not happening here in Washington. It is not happening because the Washington representatives of the doctors do not want to compromise; the Washington representatives of the lawyers do not want to compromise. The Committee on Rules has brought forward a closed rule so the House of Representatives cannot even have a discussion on our will. If we were to make a good-faith effort to address medical malpractice around the country, we would fundamentally have to address insurance industry reform, and that bill is completely silent on that issue. Frankly, we need to partially lift the antitrust exemption that the insurance industry has enjoyed for 55 years, that allows them to collude, to engage in anti-competitive practices. Those are the problems that are driving up medical malpractice insurance rates, in addition to their losses in the stock market that the gentleman from Florida (Mr. HASTINGS) has already described.

We need to give the Attorney General the ability to regulate national insurance companies because the States are not doing it, and we are not, we are not having these anticompetitive practices investigated and resolved. If we are going to make a good-faith effort regarding caps which are, by their nature, arbitrary, we need to add judicial discretion, at a minimum, to any cap, so that a court can make a judgment that could allow an award to reflect what the jury has found in that particular case, not what this body chooses to impose on us. Washington as an inflexible one-size-fits-all.

Madam Speaker, this bill does not resolve the problem. We are failing here today. I ask for a negative vote on the rule and against the bill.

Mr. REYNOLDS. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Madam Speaker, I rise today in support of the rule and the bill. We have a medical malpractice crisis in America and especially in my home State of Illinois. I am particularly worried about malpractice rates for obstetricians and gynecologists who are leaving the field of medicine, rather than ensure the delivery of healthy babies.

I spoke with Dr. Gina Wehramann, an Evanston OB-GYN, who reported that after malpractice payments were paid, one male office manager makes $90,000. She is leaving the practice of medicine to become a pharmacist where she can triple her income. She reports that OB-GYNs are leaving the field of medicine in Illinois in dozens and women in northern Illinois will find it hard to receive sufficient care for the delivery of their babies. Dr. Wehramann reported that 85 percent of OB-GYNs in northern Illinois are sued for malpractice. The plaintiffs’ bar tells us that 85 percent of OB-GYNs in my State are bad doctors.

All of this adds up to a war on women by the plaintiffs’ bar. The plaintiffs’ bar killed contraceptive development in America, with no vote in the Congress and no Presidential decision. European women have many more safe and effective options than Americans, but the plaintiffs’ bar does not care. They believe that 85 percent of all OB-GYNs are bad doctors and must be sued out of existence.

The American Association of Neurological Surgeons recently designated 25 States as crisis States, including my home State of Illinois. A constituent of mine, Dr. Jay Alexander, recently told me that his group of 17 cardiologists paid $250,000 in premiums last year, but the bill this year is $800,000. The stories are not limited to physicians. In 2001, Lake Forest Hospital paid $734,000 in malpractice coverage, but that cost will go up to $1.5 million this year. These costs deprive patients of health care at Lake Forest Hospital, and Lake Forest Hospital delivers more babies than any other hospital in Lake County, Illinois; but they will soon have to deny care to these women because of these costs.

With the passage of H.R. 4600 we will end the plaintiffs’ bar’s war on women. Without this bill, we will continue to see greater distances for deliveries, lower screening services, and less training for women’s health and health care. Madam Speaker, we must restore the doctor-patient relationship. Today we have a genuine opportunity to pass this legislation and make sure that the women of Illinois and every other State have access to obstetric care.

I urge passage for the bill, and I applaud the gentleman for bringing it to the floor.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself 15 seconds.

No reflection on my young colleague from Illinois, but as a 40-year lawyer and one involved in the process, I find it difficult to believe that I participated in something dealing with the elimination of contraception, because I protected the rights of women who were victims. My belief is it is the right-to-life group that had as much to do with the elimination of contraception.

Madam Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL), my distinguished friend and colleague.

Mr. PASCRELL. Madam Speaker, I rise to speak against this unfair rule and against this flawed legislation.

It is really unfortunate that the rule will not allow any amendments to improve the bill. My primary concern is that nowhere in H.R. 4600 does it limit health care lawsuits to just medical malpractice. In fact, health care lawsuits applies to any health care liability claim, quote unquote.

H.R. 4600 would undermine the 11 States of the Union, including my State of New Jersey, that hold HMOs accountable. We arrived at that in a very bipartisan way. It would decimate what we have done in New Jersey, what we have worked so hard to do. In my memory, if my memory serves me correctly, in this Congress, on both sides of the aisle, voted to hold HMOs accountable when they make medical decisions that kill or permanently maim patients.

So we are on the floor today doing the exact opposite of what most of us supported just last week. Looking at what happened in California, I have heard that mentioned a few times this afternoon, H.R. 4600 probably would not accomplish its goal of reducing premium costs or increasing the availability of medical malpractice insurance, either. Premiums in California rose 190 percent in the 12 years following the enactment of their claim limitation bill. In its present form, H.R. 4600 is not good for patients, and it does not work.

So I ask that we vote against H.R. 4600. Let us focus on real solutions, such as making the Patients’ Bill of Rights law. It is good to be back on domestic issues.

Mr. REYNOLDS. Madam Speaker, I yield 3 1/2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Madam Speaker, I thank the gentleman for yielding time to me.

If we are out there talking to our constituents, if we keep in touch with the medical communities, not just the doctors but the hospitals, the little home health agencies, and if we listen, we will know that our Nation is galloping toward a health care crisis of dimensions we have never faced before, a crisis of cost and a crisis of access.

There are whole States in America where a woman cannot find an obstetrician who will take a high-risk pregnancy. If we talk to the specialty surgeons, many will not take the high-
Mr. HASTINGS in Florida. Madam Speaker, I yield 1½ minutes to the gentlewoman from Massachusetts (Mrs. MARKEY) and would have accomplished that.

Mr. DEFAZIO. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in opposition to the rule and the bill. I had hoped to offer amendments, as did others, that are not being allowed to improve this legislation and deal realistically with this problem.

Even if we believe the preemption of the laws of the 50 States with tort reform, something the Republicans, of course, the States rights party, does not normally believe in, would resolve this problem, why is the pharmaceutical industry in this bill? Are they buying malpractice insurance? No. This is an incredible gift to the pharmaceutical industry.

Why is the HMO industry in this bill? Why are there no amendments in this bill? Guess what? It is all about campaign fundraising on that side of the aisle. They know this bill is so radical, and is not a solution. It is not going anywhere in the Senate, but they want to bring it up today with no amendments and no attempt to really resolve this.

No savings are required to be passed on to the doctors in their premiums. In fact, the insurers never promised that tort reform would achieve specific premium savings. That is the American Insurance Association. That is a quote from them.

The premiums are excessive. Are they excessive because of a cyclical change in settlements? No. We have had four crises in 20 years. Guess what, there have not been four up-and-down cycles in settlements in lawsuits and malpractice; there have been four cycles in the investment losses of the insurance industry, bad underwriting, and bad accounting on their practice.

This is another corporate bailout by the Republicans, plain and simple. This is not going to help my docs. My docs really want a solution. They are desperate. Some of them are even biting their noses in a somewhat alarming way. They are going to do nothing to resolve this problem long-term in this country.

Mr. REYNOLDS. Madam Speaker, I yield 2½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Madam Speaker, I thank the gentleman from New York for yielding time to me.

Madam Speaker, the vast majority of physicians across this country are highly qualified medical doctors who look out for the best interests of their patients. They have put 20 years into the practice of medicine in a sole practice for over 30 years. My son now is in his second year of medical school, and I know this insurance problem intimately.

The very principle that governs the medical profession is the concept of “do no harm.” So what does it say about our society when one of the most prestigious providers in the country these days is feared of being sued? In fact, a survey conducted by the organization known as Common Good found that 87 percent of physicians now fear potential medical malpractice lawsuits more than they did when they started their careers, 27 percent.

Health care costs are drastically inflated when doctors order tests that they feel are truly not medically necessary, but they have to order those tests in case a lawsuit should be brought against them. What they want is to do the right thing by their patient healthwise and pocketbook-wise.

We are not talking about limiting economic damages, we are talking about limiting punitive damages. The limits in this bill have dropped from 50 percent in 1 year, from $700,000 in 1999 to $1 million in the year 2000. This is having a critical effect on health care in many States, many of the lower-populated States, such as Nevada, Wyoming, and my home State of Wyoming.

Wyoming goes far beyond what is traditionally known as a rural State. The vast majority of Wyoming has the designation of “frontier,” which means that there are fewer than 6 people per square mile. Wyoming’s population is sparse, with roughly 490,000 spread out over 100,000 square miles. Providers are few and far between, and health care facilities are very limited.

Madam Speaker, what it means when excessive malpractice litigation takes hold is professional liability insurance skyrockets and physicians scramble for coverage. There are only two companies in the State of Wyoming that provide malpractice coverage. What happens is the doctors close their doors and have to go to other places to find a job.

This is a travesty of twofold dimensions: Wyoming loses a good physician; but even worse, patients in frontier Wyoming lose access to vital primary care. That is unacceptable to me. I urge everyone to support this rule and support this legislation for physicians and patients alike.

Mr. HASTINGS of Florida. Madam Speaker, I have a 2-minute designation of the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Madam Speaker, I yield 1 minute to my good friend, the gentlewoman from Nevada (Ms. BERKLEY), who has a considerable amount of experience in her State, as I do in mine, with this problem.

Ms. BERKLEY. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in strong opposition to the closed rule for H.R. 4600. Nevada’s health care crisis reached alarming proportions this past year. Malpractice insurance premiums jumped as much as $150,000 a year for many of our doctors. At least 150 Nevada doctors closed their practices, and
Mr. PETERSON of Pennsylvania. Madam Speaker, I thank the gentleman from New York for yielding time to me.

Madam Speaker, I have been involved in legislative issues for 25 years at the State and the Federal level. Most of the time, my number one issue has been health care. I chaired health at the State for 10 years. I believe this is the greatest health care crisis facing my State, Pennsylvania, and this country that we will see.

Let me tell the Members how this harm is being done to this Nation’s health care. It caps noneconomic damages in the aggregate, barring punitive damages even in the most gross acts of malpractice. It caps noneconomic damages in a way that hits low-income Americans the hardest.

There is no provision for enhancing patient safety. Judicial discretion of egregious circumstances does not exist, or streamlining our court cases. This bill wipes out all of the hard work that Nevada’s legislature and its carefully-crafted solution and legislation would solve.

The State of Nevada has passed a reform plan that is a far better starting point than H.R. 4600. This measure, signed by the Governor last month, is a product of negotiations and compromise, hard work by the medical and the legal and the insurance professionals. It passed a bipartisan legislature unanimously.

I find it very interesting that many of my colleagues on the other side of the aisle keep talking about Nevada’s health care crisis. Not one of them will stand with me and suggest that Nevada’s health care solution might be an answer to the problem.

The Nevada plan holds both doctors and lawyers accountable while setting limits on noneconomic damages. It allows judges discretion to make higher awards in the most egregious cases of malpractice. It does not let medical products manufacturers or HMOs or OB-GYNs or the pharmaceutical companies off the hook.

Madam Speaker, in an unwise rush to vote on H.R. 4600, my amendment that brings the Nevada plan to the floor was denied. My husband is a physician. I know firsthand the crisis facing the medical profession. I live with it every day. This Congress has an obligation to help ease the crisis so doctors can continue to treat their patients.

This legislation is so extreme it has no chance, no chance of passing and getting to the President’s desk for signature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its nature.

The worst part of the crisis is OB-GYNs and the poorest of American women are going to be denied; those who cannot travel long distances are going to be denied prenatal care, and we will pay for that decades ahead. Any struggling rural hospital that loses their surgeons or OB-GYNs will soon close.

Let me tell my colleagues what they have not heard about this morning. The real opposition to this bill. It limits trial lawyers’ rewards. That is what the opposition to this bill is about. But let us see if it is fair. Fifty percent of a $50,000 reward they can still get. That is pretty good pay; 33 1/3 percent of the punitive award. One in four will get a $100,000 claim. I think that is pretty good pay. Twenty-five percent on the next half a million. So on a $600,000 claim, they get 28 percent reward. Pretty good pay. Fifteen percent on anything thereafter. So a million dollar reward, they will still make 23 percent that will not go to the victim. I think that is darn good pay. People who are in rural areas in this country, we are going to be doing the biggest disservice to those who need health care because it will not be available in rural areas, and they are not even a high-risk area. It will not be available in urban areas. I am told the Pennsylvania plan to leave Philadelphia for orthopedic care. A tragedy. Let us fix it.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to my good friend and thoughtful legislator, the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my friend and colleague from the Committee on Rules for yielding me this time to speak.

I am going to try to keep the volume down and talk about what is in this bill. There is no question, my colleagues, that we have a problem in the country. No Member of Congress can say that the status quo is all right. It is time to pay for those that are coming into this world not to have the best services of a doctor, of an OB-GYN, of pediatricians; nor is it fair for those who are in the autumn of their lives not to have the right kind of medical assistance.

I think there is unanimity in recognizing what the problem is and that we should be unified in how we resolve this. As a Californian, I know what the MICRA law is. For those who do not know what it stands for, it is the Medical Injury Compensation Reform Act. It has been on the books in California for more than a quarter of a century. Democrats put it into place. Democratic Governors have not repealed it. Republican legislatures, Democratic Governors, regardless of what that combination has been, for those who take shots at lawyers and Democrats, a Democratic legislature, and for over a quarter of a century, they have kept this law in place.

In the Congress we have looked at MICRA; and the general consensus has been that MICRA is good, MICRA works. To the gentleman and my friend from Pennsylvania (Mr. GREENWOOD), I told him I will not be a cosponsor; I will be an original cosponsor of MICRA. This is not MICRA. MICRA places a $250,000 cap on economic damages and malpractice cases. This bill does that as well, and I think that is right. But it also does on product liability cases against drug and medical device manufacturers. How can any Member say to their constituents that that is all right, that they have no recourse? This is not about lawyers. This is about injured patients. We have to stand next to them as well.
They can because they can all get together. They are not subject to monopoly laws and anti-trust laws. And of course we were denied because this is a closed rule.

Also we heard the gentlewoman from California (Ms. E. Shook) say that if you think that this bill is the answer to the malpractice problem, we need to look no further than California, which has a law in place for the last 26 years and this bill is claimed to be done and modeled after that California law. California malpractice insurance problems have not disappeared because of the law they passed 26 years ago. They still have it. It did not work.

The focus should not be just this simplistic answer of putting a cap on lawsuits and everything would be okay.

In Michigan we did this 10 years ago. Many of the provisions of this bill were in Michigan’s bill passed in the early 90’s. Michigan is now considered one of the States, once again, in medical malpractice problems. That $50,000 limit lawyers’ fees to 23 percent that will do some good. He did not say that the malpractice carrier will pay a million dollars. If it is a one-third fee, they will pay a million dollars. It is not the purpose, they will pay more.

This does not have anything to do with malpractice.

We ought to focus on the malpractice problem, not just gratuitously hurt the innocent victims of malpractice.

Mr. WELDON of Florida, Mr. Speaker, we have heard from a lot of lawyers today and a few business people. I would like to now have an opportunity to hear from a medical doctor educated in the University of Buffalo and then moved to Florida.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. Speaker, if we talk about malpractice, we ought to talk about malpractice. If this bill passes, there is no commitment from any insurance company to actually reduce rates. There are some provision in here that have nothing to do with malpractice rates.

The previous speaker mentioned attorneys’ fees and how reducing attorneys’ fees will reduce attorneys’ fees. It did not have anything to do with malpractice insurance. He said if you lower cap you will have lower settlements. What he did not say is the malpractice carrier will pay a million dollars. If it is a one-third fee, they will pay a million dollars. It is not the purpose, they will pay more.

This does not have anything to do with malpractice.

We ought to focus on the malpractice problem, not just gratuitously hurt the innocent victims of malpractice.

I yield to Florida.
to read it. What this study also looked at was morbidity and mortality. They said it is not enough to just look at a decline in health care charges, but was it having an adverse effect on patients; were there more complications; were there more deaths? And to answer all these questions, they did not. The researchers out of Stanford University, it is an excellent study published by Kessler and McClellan, they extrapolated this data and concluded that defensive medicine, because of liability, costs us $30 billion a year.

How can that be? I can tell you the patients came in my office. I thought they had this; I would order that test. And then I would say to myself, What if they have something else? What if they have this or that? What if they sue me? So I would start ordering the additional tests to prevent myself from being sued.

Mr. Speaker, I encourage my colleagues to support this rule and support the underlying bill. It is a Federal issue.

[From the Quarterly Journal of Economics, May 1996]

DO DOCTORS PRACTICE DEFENSIVE MEDICINE?

[By Daniel Kessler; Mark McClellan]

"Defensive medicine is a potentially serious social problem: if fear of liability drives health care providers to administer treatments that do not have worthwhile medical benefits, liability claims and payouts may generate inefficiencies much larger than the cost of compensating malpractice claimants. To obtain direct empirical evidence on this question, we analyze the effects of malpractice liability reforms using data on all elderly Medicare beneficiaries treated for serious heart disease in 1984, 1987, and 1990. We find that malpractice reforms that directly reduce provider liability pressure lead to reductions of 5 to 9 percent in medical expenditures with substantial effects on mortality and medical complications. We conclude that liability reforms can reduce defensive medical practices.

INTRODUCTION

The medical malpractice liability system has two principal goals: redressing medical care beneficiaries for purposes of assessing due care and the expenses of medical care. Despite this policy importance, there is virtually no direct evidence on the existence and magnitude of defensive medical practices. Such evidence is essential for determining appropriate tort liability policy. In this paper we seek to provide such direct evidence on the prevalence of defensive medicine by examining the link between medical malpractice tort law, treatment intensity, and patient outcomes. We use longitudinal data on all elderly Medicare beneficiaries hospitalized for treatment of a new heart attack (acute myocardial infarction, or AMI) or new ischemic heart disease (IHD) in 1984, 1987, and 1990, matched with information on tort laws from the states in which the patient was treated. We study the effect of tort law reforms on total hospital expenditures on the patient in the year after AMI or IHD to measure intensity of treatment. We also model the effect of tort law reforms on important patient outcomes. We estimate the effect of reduced medical care on the quality of life; whether the patient experienced a subsequent AMI or heart failure requiring hospitalization in the year following the initial illness.

To the extent that reductions in medical care due to defensive medicine are measured in intensity but not with increases in adverse health outcomes, medical care for these health problems is defective; that is, suboptimal, as judged against the marginal social cost. Or, the claim is that there is less care due to malpractice liability pressures. Put another way, tort reforms that reduce liability also reduce inefficiencies in the medical care delivery system to the extent that they reduce health expenditures which do not provide commensurate benefits. We assess the magnitude of defensive treatment behavior by calculating the cost of an additional year of life or an additional year of cardiac health achieved through treatment intensity induced by specific aspects of the tort liability system. Because our measure of precaution results in low expenditures per year of life saved relative to generally accepted costs per year of life saved of other medical treatments, the malpractice liability system provides incentives for efficient care. But if liability-induced precaution results in high expenditures per year of life saved, then the liability system provides incentives for socially excessive care. Because the precaution with which we measure the consequences of malpractice liability reforms include all U.S. elderly patients with heart diseases in 1984, 1987, and 1990 in our analysis.

Section I of the paper discusses the theoretical and empirical evidence on the current liability system on efficiency in health care. For this reason, liability policy should be guided by empirical evidence on its consequences for "due care" in medical practice. Section II reviews the previous empirical literature. Although the existing evidence on the effectiveness of alternative liability rules provided little direct evidence, the role of the tort system on physician behavior is virtually nonexistent. Section III presents our main results of the patient data, and motivates our analysis of elderly Medicare beneficiaries for purposes of assessing the costs of defensive medicine. Section IV discusses the details of our data, and Section VI discusses implications for policy, and Section VII concludes.

1. Malpractice liability and efficient precaution in heart care.

In general, malpractice claims are adjudicated in state courts according to state laws. These laws require three elements for a successful claim. First, the claimant must show that the defendant was negligent, which we characterize as the existence of a malpractice claim. Second, the claimant must show that the provider caused the event: the claimant practice claimant must establish that the provider was negligent. Stated simply, this means showing that the provider took less care than that which is customarily practiced by the average member of the profession in good standing, given the circumstances of the doctor and the patient (Keeton et al. 1984). Collectively, this three-part test of the validity of a malpractice claim is known as the negligence rule.

In addition to patient compensation, the principal role of the liability system is to induce doctors to take the optimal level of precaution against patient injury. However, a negligence rule may lead doctors to take socially insufficient precaution, such that the marginal social benefit of precaution would exceed the marginal social cost. Or, the negligence rule may lead doctors to take socially excessive precaution, that is, to practice defensive medicine, such that the marginal social benefit of precaution would be less than the marginal social cost (Farber and White 1991).

The negligence rule may lead doctors to take socially insufficient precaution, such that the marginal social benefit of precaution would exceed the marginal social cost. Or, the negligence rule may lead doctors to take socially excessive precaution, that is, to practice defensive medicine, such that the marginal social benefit of precaution would be less than the marginal social cost (Farber and White 1991).
and emotional energy spent on legal defense [OTA 1993, p. 7]. Second, patients and physicians bear little of the costs of medical care associated with physician precaution in any practice the most health care is financed through health insurance. Generally, insured expenses for drugs, diagnostic tests, and other services performed for precaution are much larger than the uninsured costs of the physician’s own effort. Third, physicians bear substantial costs of accidents only when patients file claims (which may not file if they practice in response to every negligent medical injury [Harvard Medical Practice Study 1990]).

The direction and extent of the divergence between the privately and socially optimal levels of precaution depends in part on state tort laws. Although the basic framework of the negligence rule applies to most medical malpractice claims in the United States, individual states have modified their tort law to either expand or limit malpractice liability along various dimensions over the past 30 years. For example, several states have imposed caps on malpractice damages such that recoverable losses are limited to a fixed dollar amount, such as $250,000. These modifications to the basic negligence rule can affect the costs to physicians and the benefit to patients from a given malpractice claim or lawsuit, and thereby also affect the frequency of precaution administered by physicians (hereafter referred to as “precaution”). Claims are limited to a fixed dollar amount, such as $250,000. These modifications to the basic negligence rule can affect the costs to physicians and the benefit to patients from a given malpractice claim or lawsuit, and thereby also affect precaution. For example, the claims frequency or insured expenses for drugs, diagnostic tests, and other services performed for precaution are much larger than the uninsured costs of the physician’s own effort. Thus, while previous analyses have provided detailed evidence on the existence of malpractice claims, they only provide evidence of the effects of legal reforms on doctors’ behavior. Identifying the existence of defensive treatment practices and the extent of inefficient precaution due to legal liability requires a comparison of the response of costs of precaution and the response of costs of adverse events to changes in the legal environment. A number of studies have investigated physicians’ behavioral response to malpractice pressure. These studies generally have analyzed the costs of defensive medicine by relating physicians’ actual exposure to malpractice claims to clinical practices and patient outcomes [Rock 1988; Harvard Medical Practice Study 1990; Localio et al. 1993; Baldwin et al. 1995]. Rock, Localio et al., and the Harvard Medical Practice Study find results consistent with defensive medicine: Baldwin et al. However, the potential for unobserved heterogeneity across providers and across small geographic areas may cause heterogeneity across providers and across small geographic areas may qualify the results of all of these studies. The studies used frequency of claims or magnitude of insurance premiums at the level of individual doctors, hospitals, or areas within a single state over a limited time period to measure malpractice pressure. Because malpractice laws within a state at a given time are constant, the measures of malpractice pressure used in these studies do not measure the effects of pri-

malpractice liability reforms. The two reforms most commonly found to reduce payments to and the frequency of malpractice claims are caps on malpractice damages and a statute-of-limitations reduction. The effects of these reforms are difficult to capture fully in observational data sets and could lead to a potentially serious problem of selection bias. For example, the caps on insurance premiums of a particular provider or area may be relatively high because the provider is relatively low quality, because the patients are particularly sick (and hence prone to adverse outcomes), because the patients had more “taste” for medical interventions (and hence are more likely to disagree with their providers over treatment decisions), or because of many other factors. The sources of the variation in legal environment are unclear and probably multifactorial. The effect of any individual factor may be difficult to capture fully in observational data sets and could lead to an apparent but non-causal association between measured malpractice pressure and patient outcomes.

Thus, while previous analyses have provided a range of insights about the malpractice liability system, they have not provided a consistent understanding of how malpractice reforms would actually affect physician behavior, medical costs, and health outcomes. Our statistical methods seek to measure the effects of changes in an identifiable economic model

II. Previous empirical literature

The previous empirical literature is consistent with the hypothesis that providers practice defensively. Whether it does not provide direct evidence on the existence or magnitude of the problem. One arm of the literature uses surveys of physicians to assess whether doctors practice defensive medicine [Reynolds, Rizzo, and Gonzalez 1987; Moser and Musaccio 1991; OTA 1994]. Such physician surveys measure the cost of defensive medicine only through further untestable assumptions about the relation- ship between survey responses, actual treatment behavior, and patient outcomes. Alternatively, one can believe that they practice defensively, surveys only provide information on how to manage in a hypothesized behavior (unobserved decision) may not influence behavior in real situations.

Another body of work uses clinical studies of the effectiveness of intensive treatment [Leveno et al. 1986; Shy et al. 1990]. These studies find that certain intensive treatments which are generally thought to be used defensively have an insignificant impact. Practiced cost of care and the social optimum. In this case, low benefits may be ex post difficult to verify may affect precaution. For example, physician precaution in any practice the most health care is financed through health insurance. Generally, insured expenses for drugs, diagnostic tests, and other services performed for precaution are much larger than the uninsured costs of the physician’s own effort. In contrast, the claims frequency or insured expenses for drugs, diagnostic tests, and other services performed for precaution are much larger than the uninsured costs of the physician’s own effort.

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Thus, while previous analyses have provided a range of insights about the malpractice liability system, they have not provided a consistent understanding of how malpractice reforms would actually affect physician behavior, medical costs, and health outcomes. Our statistical methods seek to measure the effects of changes in an identifiable economic model

III. Econometric models

Our statistical methods seek to measure the effects of changes in an identifiable economic model

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source of variation in malpractice pressure influencing medical decision making—state tort laws—that is not related to unobserved heterogeneity across patients and providers. We control for climate across reform and nonreforming states during a seven-year period in inpatient hospital expenditures, and in outcome measures including all-cause cardiac and noncardiac complications related to quality of life. We model average expenditures and outcomes as essentially nonparametric functions of time, state, and individual characteristics, state legal and political characteristics, and state- and time-fixed effects. Law changes might arise in potential populations (e.g., elderly population). We report standard errors for inferences about average differences that might arise in potential populations (e.g., elderly population with the heart diseases of interest for the years of our study, so that our results describe the actual average differences in trends associated with our identified reform periods based on the concentration of lawyers in a state). However, Campbell Kessler, and Shepherd [1996] show that the concentration of physicians and lawyers in a state is correlated with state tort systems in effect at the time of each individual’s health event. The patient has a serious problem [Priest 1987; Rabin 1988]. However, it is unlikely that endogeneity of reforms is a serious problem [Priest 1987; Rabin 1988]. However, law changes may not have instantaneous effects because it may take time for lawyers, physicians, and patients to learn about their consequences for liability, and the time controls, [\(\beta\)] is the two-dimensional binary vector describing the existence and magnitude of defensive medicine. In all lines of commercial casualty insurance, we estimated linear models of average expenditures and outcome effects using these [\([L_{\text{sub,ist}}]\) and \([L_{\text{sub,2st}}]\) is thus a two-dimensional binary vector describing the existence of malpractice reforms. We first estimate linear models of average expenditures and outcome effects using these [\([L_{\text{sub,ist}}]\) and \([L_{\text{sub,2st}}]\) is thus a two-dimensional binary vector describing the existence of malpractice reforms. We first estimate linear models of average expenditures and outcome effects using these [\([L_{\text{sub,ist}}]\) and \([L_{\text{sub,2st}}]\) is thus a two-dimensional binary vector describing the existence of malpractice reforms. We first estimate linear models of average expenditures and outcome effects using these [\([L_{\text{sub,ist}}]\) and \([L_{\text{sub,2st}}]\) is thus a two-dimensional binary vector describing the existence of malpractice reforms. We first estimate linear models of average expenditures and outcome effects using these [\([L_{\text{sub,ist}}]\) and \([L_{\text{sub,2st}}]\) is thus a two-dimensional binary vector describing the existence of malpractice reforms. We first estimate linear models of average expenditures and outcome effects using these [\([L_{\text{sub,ist}}]\) and \([L_{\text{sub,2st}}]\) is thus a two-dimensional binary vector describing the existence of malpractice reforms.
Analysis of cardiac disease patients because the cause of a particular set of diagnoses is often detailed exploration of the health and treatment consequences of policy reforms. Cardiac disease and its complications are the leading cause of medical expenditure in the United States. A majority of AMIs and IHD hospitalizations occur in the elderly, and both mortality and subsequent cardiac complications are common enough that the test for defensive medicine can be a precise one. Furthermore, because AMI is essentially a severe form of the same underlying illness as IHD, defensive medicine affects one or more cases of a health problem differently by comparing AMI with IHD patients. In addition, cardiovascular illness is likely to be sensitive to defensive medical practices. In a ranking of illnesses by the frequency and severity of malpractice claims that they generate, AMI is the third most prevalent and costly illness, and IHD is distinctive because of the severity of medical injury associated with malpractice claims: conditional on a claim, patients with AMI suffer injury that rates 8.2 on the National Association of Insurance Commissioners nine-point severity scale, the second-highest severity rating of any malpractice-claim-generating health problem (PIAA), whereas IHD has a considerably lower rating.

We focus here on state malpractice law, because no comparable longitudinal microdata exist for nonelderly U.S. patient populations. However, claims data are critical to understanding health issues for this population. Several studies have demonstrated that claims rates are lower in the elderly than in the nonelderly population, presumably because losses from severe injuries would be smaller given the patients' shorter expected survival (Weiler et al. 1993). This hypothesis suggests that physicians are mainly defensively concerned with malpractice claims for elderly patients. Thus, treatment decisions and expenditures in this population would be less sensitive to legal reforms. However, another interesting consequence of defensive practices with respect to elderly patients is that an increase in defensive medicine will likely lower the frequency of adverse outcomes in the elderly.

states' statutes of limitations. Statutes of limitations are most relevant in situations involving latent injuries. Malpractice arising out of AMI in the elderly would involve an injury that is not adverse until several years after the event would appear before any statute of limitations would exclude an injured patient. Nonetheless, statutes of limitations are the potential policy reforms included in our study (23 states shortened their statutes of limitations between 1985 and 1990, and Danzon [1986] finds that shorter statutes of limitations are associated with a reduction in the frequency of claims. If our models are correctly specified, then statute-of-limitations reforms should have no effect on the treatment intensity and outcome decision. If shorter statute-of-limitations reforms are a source of bias, however, statute-of-limitations reforms may show a significant estimated effect. Finally, because all of our specifications control for fixed differences across states, they do not allow us to estimate differences in the baseline levels of intensive treatment and adverse outcomes. Thus, we estimate additional versions of all of our models with region effects only, to explore baseline differences in treatment rates, costs, and outcomes across legal regimes.

IV. Data

The data used in our analysis come from two principal sources. Our information on the characteristics, expenditures, and outcomes of Medicare beneficiaries with AMI or IHD are obtained from the Health Care Financing Administration (HCFA) inpatient discharge abstract files, with death dates based on death reports validated by the Social Security Administration. Measures of total one-year hospital expenditures were obtained by adding all reimbursement to acute-care spending in the calendar year. Total expenditures and treatment intensity was estimated for each of the observations in the Medicare data set with a match of two tort law variables that indicated the presence of malpractice claims. We hypothesized that defensive medicine can be a precise one. Furthermore, because AMI is essentially a severe form of the same underlying illness as IHD, defensive medicine affects one or more cases of a health problem differently by comparing AMI with IHD patients. In addition, cardiovascular illness is likely to be sensitive to defensive medical practices. In a ranking of illnesses by the frequency and severity of malpractice claims that they generate, AMI is the third most prevalent and costly illness, and IHD is distinctive because of the severity of medical injury associated with malpractice claims: conditional on a claim, patients with AMI suffer injury that rates 8.2 on the National Association of Insurance Commissioners nine-point severity scale, the second-highest severity rating of any malpractice-claim-generating health problem (PIAA), whereas IHD has a considerably lower rating.

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mortality rates were slightly lower for AMI and higher for IHD in the 1985–1987 reform states, and conversely for the 1988–1990 reform states. Thus, overall, reform states looked like nonreform states five years before our panel began, our seven-year panel to estimate short-term effects. Recall that the general absence of a pre-adoption baseline for the study years. Altogether, growth in hospital expenditures between 1984 and 1990 led to substantial relative reductions in hospital expenditures during this period. The estimated DD effects of malpractice reforms three to five years after adoption compared with the short-term effects. In particular, Table VI shows that direct reforms lead to short-term expenditure reductions in AMI expenditures. Direct reforms lead to approximately 4.0 percent within two years of adoption, and that the reduction grows to approximately 5.8 percent three to five years after adoption. This shows that the positive association between indirect reforms and expenditures in Table IV is a short-term phenomenon; the long-term effect on expenditures is approximately zero.

As in Table IV, both direct and indirect reforms had the trivial 0.18 percentage points in expenditures of over $100,000 per additional AMI survivor in 1991 dollars. These small estimated mortality differences are not only insignificantly different from zero, they are estimated rather precisely as well. For example, the upper 95 percent confidence limit for the effect of direct reforms on one-year mortality rates declined, but readmission rates with cardiac complications increased during this time period, confirming the results of Table IV. Our estimated mortality rate differences were again associated with any consequential effects on expenditures and year fixed effects. The second set, in Figs. 1 and 2, shows no dynamic reform and nonreform states: the cumulative difference in mortality and cardiac complication trends was around 0.1 percentage points for AMI and 0.29 percentage points for heart failure occurrence. Thus, compared with the estimated expenditure effects, these differences are not substantial.

Table V presents estimated effects of malpractice reforms on IHD expenditures and outcomes, with results qualitatively similar to those just described for AMI. IHD expenditure and readmission rates declined, but readmission rates with complications, both soon and later after adoption. For example, the average difference in mortality trends between direct-reform and nonreform states is approximately 0.22 percentage points (not significant) within two years of adoption, with a 95 percent upper confidence limit of 0.39 percentage points. At three to five years the estimated effect is 0.12 percentage points (not significant) with a 95 percent upper confidence limit of 0.75 percentage points. These results translate into very high expenditure reductions per reduction in adverse AMI outcomes.

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Taken together, the estimated DD effects of IHD reforms over time are presented in the right half of Table VI. Direct reforms are associated with a 7.1 percent reduction in expenditures (standard error 0.5) and an 8.9 percent reduction by five years after adoption (standard error 0.5). In contrast, mortality trends for states with direct reforms do not differ significantly by two years (point estimate of −0.15 percentage points, 95 percent upper confidence limit 0.18) or five years after adoption (point estimate of −0.29 percentage points, 95 percent upper confidence limit 0.22). Direct reforms also have no significant or substantial effects on cardiac complications, either immediately or later. Indirect reforms are again associated with small positive effects on expenditure growth (3.1 percent within two years), but these effects decline over time to a relative trivial level (1.4 percent at three to five years). Indirect reforms are also associated with slightly lower mortality rates and slightly higher rates of cardiac complications; however, the standard errors are corrected for heteroskedasticity and grouping at the state/zip-code level.

The estimates of average expenditure growth rates in both specifications are substantial showing an increase in real expenditures of over $100,000 per additional AMI survivor to one year. The estimates in the corresponding region-effect models are very similar. Indirect reforms were also associated with substantial mortality effects that were very close to zero. Results for outcomes related to quality of life, that is, rehospitalizations with either recurrent AMI or heart failure, conditional on previous admission, were again associated with relatively smaller increases in expenditures (3.3 percentage points for AMI readmission; 6.4 percentage points for heart failure occurrence). Thus, the pattern of reform effects for IHD is again qualitatively similar to that for AMI, with direct reforms having a somewhat larger effect on expenditures.

The estimates in Tables IV through VI consistently show that the adoption of direct malpractice reforms between 1984 and 1990 had substantial relative reductions in hospital expenditures during this period—accumulating to a reduction of more than 5 percent for AMI and 9 percent for IHD by five years after reform adoption—and that these expenditure effects were not associated with any consequential effects on mortality or on the rates of significant cardiac complications. We explore a variety of other models to test the robustness of our principal results. We estimated two alternative specifications and our primary results. We estimated two alternative specifications and our primary results that were not used in our primary analysis. We estimated two alternative specifications and our primary results that were not used in our primary analysis.
methods. Using the model presented in Tables IV and V, the estimated difference—difference effect of direct reforms on expenditures for AMI patients, controlling for random state/time effects, is 0.3 percent (standard error 2.1), and for indirect reforms, the estimated effect is 0.6 percent (standard error 2.0). The estimated DD effect of direct reforms for AMI patients controlling for random state/time effects, is 0.15 percentage points (standard error 0.32) and for indirect reforms, the estimated effect is 0.07 percentage points (standard error 0.32). We obtained similar results for IHD patients: direct reforms showed a negative and statistically significant effect on expenditures with an insubstantial and precisely estimated effect on mortality, and indirect reforms showed no substantial effect on either expenditure or mortality. Estimating difference—difference 1984–1990 expenditure growth rates between early-adopters and nonadopters were insignificant in the random effects specification. For AMI patients the differential growth rate for early adopters of direct reforms is 0.61 percent (standard error 3.1). For early adopters of indirect reforms the differential growth rate is 0.63 percent (standard error 2.3). For IHD patients the differential growth rate for early adopters of direct reforms is 0.19 percent (standard error 3.0). The estimated effect of indirect reforms on the differential growth rate is 3.2 percent (standard error 2.2). Another related diagnostic involved estimating the models with Hubeck time effects for both state grouped errors instead of corrections for zip-code/time grouped errors. Standard errors corrected for state-time grouping were somewhat smaller than those corrected for zip-code/time grouping but smaller than those obtained under the random effects specification.

Although they did have a statistically significant influence on expenditures in some models, the broad set of political and regulatory environment controls that we used did not change our results substantially. Using the models presented in Table IV and V but excluding controls for the regulatory and legal environment, the estimated DD effect of direct reforms on expenditures for AMI patients 9.1 percent (standard error is 0.44). For indirect reforms the estimated DD effect on expenditures increased from 0 to 1.9 percent (standard error is 0.6). In addition, the difference in 1984–1990 growth rates between early-reforming and nonreforming states changes sign from positive to negative directly before 1985 (Table IV: 3.1 percent with legal environment controls, 3.1 percent without them). The difference in growth rates for IHD states enacting indirect reforms before 1985 remains about the same (Table IV: 2.8 percent with legal environment controls, 3.5 percent without them). These two specification checks, taken together, underscore the points made by Tables IV and V. Direct reforms reduce expenditure growth without increasing state expenditures and have a substantial effect on either expenditures or mortality, and differential 1984–1990 expenditure growth rates for early-adopting states are robust estimates of the long-term impact of reforms.

Finally, we reestimated the models in Tables IV and V including controls for statute-of-limitations reforms. Statute-of-limitations reforms have a very small positive effect on expenditures and no effect on mortality, which is consistent with their classification as an exogenous reform. Using the models presented in Tables IV and V, statute-of-limitations reforms are associated with a 0.96 percent increase in expenditures for AMI patients and a 0.82 percentage point increase in mortality (standard error is 0.28). Inclusion of statute-of-limitation reforms did not substantially alter the estimated DD effect of either direct or indirect reforms: for AMI patients the estimated effect of direct reforms went from 0.3 percent to 0.2 percent and the estimated effect of indirect reforms remained constant at 1.8 percent (Table IV).

To explore the sources of our estimated reform effects, we estimated several additional specifications that analyzed effects on use of intensive cardiac procedures such as catheterization, that used interaction terms between pre-adoption and calendar-year effects, and that estimated the effects of each type of tort reform separately (see Table IIIA). These specifications provided a closer comparison with the simpler specifications reported here for both AMI and IHD. Specifically, reforms with a determinant, negative direct impact on utilization and a historically slow increase in total expenditure growth, somewhat less growth in the use of intensive procedures (but smaller effects than would explain the expenditure differences, suggesting less intensive treatments were also affected), and no consequential effects on mortality.

VI. Policy implications

We have developed evidence on the existence and magnitude of ‘‘medical epidemic’’ medical practices by studying the consequences of reforms limiting legal liability on health care expenditures and outcomes for heart disease. In the early 1980’s, we were a critical extension to the existing empirical literature on the effects of malpractice reforms. Previous studies have found significant effects for direct reforms on the frequency of and payments to malpractice claims. Because the actual costs of malpractice litigation comprised a very small portion of total health care expenditures, however, these litigating effects have only a limited impact on health care expenditure growth. To provide a more complete assessment of the effects of medical liability reforms we have studied their consequences for actual health care expenditures and health outcomes. Our study is the first to use exogenous variation in tort laws not related to potential idiosyncrasies of providers or small geographic areas to assess the behavioral effects of malpractice pressure. Thus, our analysis fills a crucial gap in the available literature on the S. malpractice liability system, because the effects of malpractice law on physician behavior are understood to be affected by different liability rules and potentially important for understanding medical expenditure growth.

Our analysis indicates that reforms that directly limit damage awards, abolition of punitive damages, aboli- tion of mandatory prejudgment interest, and collateral-source-rule reforms—reduce hospital care expenditures within three to five years of adoption, with the full effects of reforms requiring several years to appear. The effects are somewhat smaller for IHD patients and the DD effect of reductions in retail liability rules and potentially important for understanding medical expenditure growth. In contrast, re- forms that limit liability only indirectly—caps on contingency fees, mandatory periodic payments, joint-and-several liability re- form, and patient compensation funds—are not associated with substantial effects on either expenditures or outcomes, at least by several years after adoption. Neither type of re-form led to any consequential differences in medical expenditures or serious complications. As we described previously, the estimated expenditure/benefit ratio associated with direct reforms is over $500,000 per death, and holds for both direct and indirect reform policies, for reversible and nonreversible serious complications and for long-term effects of malpractice reforms on health outcomes.

Hospital expenditures on treating elderly heart disease patients are substantial—over $8 billion per year in 1991—but they comprise only a fraction of total expenditures on health care. If our results are generalizable to medical expenditures outside the hospital, to other illnesses, and to younger patients, then direct reforms could lead to expenditure reductions of well over $50 billion per year in the near-term. These results are important for health policies. We hope to address the generalizability of our results more extensively in future research. More detailed studies of the impact of malpractice reform on patient expenditure and outcome information, linking the analysis of the two
policy justifications for a malpractice liability system, should be particularly informative. Such studies could provide more direct evidence on how liability rules translate into effects on the supply of health services and medical expenditures with implications for medical expenditures but not outcomes. Thus, they may provide more specific guidance on which specific liability reform policies are most effective. "Capitional" reforms such as no-fault insurance and mandatory administrative reviews—will have the greatest impact on defensive practices and have the greatest consequences for health outcomes.

Our evidence on the effects of direct malpractice reforms suggests that doctors do practice differently. Given the randomized relationship between malpractice claims and medical injuries documented in previous research, perhaps our findings that less malpractice liability does not have significant adverse consequences for patient outcomes but does affect expenditures are not surprising, and helpful comments, however, this is the first direct empirical quantification of the costs of defensive medicine.

**VII. Conclusion**

We have demonstrated that malpractice liability reforms that directly limit awards and reduce filing lawsuits lead to substantial reductions in medical expenditure growth in the treatment of cardiac illness for those with serious heart disease. Various consequences for important health outcomes, including mortality and common complications. We conclude that treatment of elderly patients with heart disease does involve "defensive" medical practices, and that limited reductions in liability can reduce these costly practices. (*) We would like to thank Danzol Bobrovsky and Genevieve Grossman, Paul Josow, Lawrence Katz, W. Page Keeton, Gary King, A. Mitchell Polinsky George Shepherd, Frank Sloan, seminar participants at Northwestern University, the University of Michigan and the National Bureau of Economic Research, and two anonymous referees for advice, assistance, and helpful comments. Jeffer Gepper and Mohan Ramanujan provided excellent research assistance. Funding from the National Institute of Aging, Harvard/MIT Research in Positive Political Economy, and the John M. Olin Foundation is greatly appreciated. All errors are our own. Reforms requiring collateral-source offset set rules and more common-law reforms which states that the defendant must bear the full cost of the injury suffered by the plaintiff, even if the plaintiff were compensated by a collateral source independent or "collateral" source. Under the common-law default rule defendants liable for medical malpractice always bear the cost of treating a patient for medical injuries resulting from the malpractice even if the treatment were financed by the patient's own health insurance. Either the plaintiff enjoys coverage (by the plaintiff's insurer) or the defendant bears the full cost of the injury suffered by the plaintiff or the defendant reimburses the plaintiff's (subrogee) health insurer, depending on the plaintiff's insurance contract and state or federal law. However, some states have enacted reforms that specify that total damages payable in a malpractice suit are to be reduced by all or part of the value of collateral source payments. Estimates of the impact of reforms on claims severity vary widely across states. Based on 1975–1978 data, Danzol [1982, p. 30] reports that states enacting caps on damages had 19 percent lower awards, and states enacting "collateral source" reforms had 50 percent lower awards. Based on 1975–1984 data, Danzol [1986, p. 26] reports that states enacting caps had 23 percent lower awards, and states enacting collateral source offsets had 11 to 18 percent lower awards. Based on 1975–1978 and 1984 data, Sloan, Tabakoff, and Bobrovsky [1989a] report that caps reduced awards by 38 to 39 percent, and collateral-source offsets reduced awards by 21 percent. Again, because all elderly patients surviving the first years of our study are included, this consideration applies only to extending the results to other patient populations. Of course, if defensive practices are not performed well in models of health expenditures and outcomes. However, incorporating such random effects permits us to explore the robustness of our estimation methods to possible state-time specific effects. According to Danzol [1982, 1986], urbanization is a highly significant determinant both of claim payments to and the frequency of claims and of the enactment of tort reforms. We control for urbanization at the individual level, as discussed below. Although we did not include treatment of urbanization in the full model, it is greatly appreciated. All errors are our responsibility. "The Mosaic of Economic Growth," R. Landa and others, (Stanford, CA: Stanford University Press, 1996).


Physician Insurers Association of America (PIMA), Data Sharing Reports (1993).


Note.—Tables were not reproducible in the Record.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Ms. CAPITO. Mr. Speaker, West Virginia’s health care system and the health care system of many States are facing many challenges. But medical liability insurance has caused a mass exodus of doctors from my State of West Virginia.

I live in Charleston, West Virginia, our capital city. We have one of the largest medical facilities in the State, the Charleston Area Medical Center, which was downgraded from a level one trauma center to a level three trauma center because we could not provide the 24 hour, 7-day-a-week emergency care.

Mr. Speaker, I challenge anybody to tell me about living in a capital city of any State in this Nation and you have to be air lifted out of your capital city, out of the largest medical facilities in your State if you have multiple injuries.

That is a sad story, but I can tell my colleagues what is going to be a sadder story if we do not fix this problem.

Last week, a young boy 6 years old had a pen lodged in his windpipe. His parents rushed him to the emergency room. What happened, the emergency physician had to call all around to find somebody to treat him. Did they find anybody? No. He drives 3 hours to Cincinnati, Ohio, to find a specialist that can help this young man. What if he could not find a specialist that could see him in 24 hours?

I challenge my colleagues, a tragedy is in the making. The perfect storm is created because of the high cost of medical liability insurance, and our doctors across the Nation and most especially in West Virginia are suffering, and the access and the quality care that we deserve as Americans is going to suffer as well.

Without this Federal legislation, the exodus of our health care providers from the practice of medicine will continue, and patients will find it increasingly difficult to find the care. I urge all of my colleagues to recognize this critical and growing problem and to pass H.R. 4600. It will go a long way to help our health care system in our State and our Nation rise and stay at the level that we expect.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of our time, and I probably will not take it all.

I do ask a question, if this bill is supposed to be the end all, be all, then will someone please explain to me what would have been wrong with accepting the amendments that were very, very close to being passed by Members of the House of Representatives, most of whom were Democrats? No, they did not get that opportunity.

I do not know whether the gentleman from New York (Mr. REYNOLDS) cares to indulge in this particular colloquy and be passed to physicians.

Mr. Speaker, the gentleman from Massachusetts (Mr. MARKET) offered an amendment yesterday that would direct insurers to use any savings received as a result of H.R. 4600 to reduce the premiums they charge their health care providers. If within 2 years of that enactment, his legislation called for insurers not realizing cost savings, then those provisions of H.R. 4600 would be null and void. What liability lawsuits and liability claims would not apply to any lawsuits and claims against providers insured by the insurance companies. That was defeated in the Committee on Rules by 2 to 1. I never understood that.

It is modeled on California. In 1975, California enacted into law the Medical Malpractice Cost Study Act which created because of the high cost of medical liability insurance, and our doctors across the Nation and most especially in California are suffering, and the access and the quality care that we deserve as Americans is going to suffer as well.

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I do ask a question, if this bill is supposed to be the end all, be all, then will someone please explain to me what would have been wrong with accepting the amendments that were very, very close to being passed by Members of the House of Representatives, most of whom were Democrats? No, they did not get that opportunity.

I do not know whether the gentleman from New York (Mr. REYNOLDS) cares to indulge in this particular colloquy and be passed to physicians.

Mr. Speaker, the gentleman from Massachusetts (Mr. MARKET) offered an amendment yesterday that would direct insurers to use any savings received as a result of H.R. 4600 to reduce the premiums they charge their health care providers. If within 2 years of that enactment, his legislation called for insurers not realizing cost savings, then those provisions of H.R. 4600 would be null and void. What liability lawsuits and liability claims would not apply to any lawsuits and claims against providers insured by the insurance companies. That was defeated in the Committee on Rules by 2 to 1. I never understood that.

It is modeled on California. In 1975, California enacted into law the Medical Malpractice Cost Study Act which created because of the high cost of medical liability insurance, and our doctors across the Nation and most especially in California are suffering, and the access and the quality care that we deserve as Americans is going to suffer as well.

Without this Federal legislation, the exodus of our health care providers from the practice of medicine will continue, and patients will find it increasingly difficult to find the care. I urge all of my colleagues to recognize this critical and growing problem and to pass H.R. 4600. It will go a long way to help our health care system in our State and our Nation rise and stay at the level that we expect.
That said, most physicians, most health care providers are honest. There is nothing that is going to stop the bad physician from being bad in this particular measure, and punitive damages are what alerts the entire profession that they need to be careful. It is just that under this rule and the underlying legislation, a yes vote for patients and families all across America. Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself the remainder of my time.

I thank the gentleman from Florida for some of his opportunity to share with passion his views on this legislation.

First, both the Committee on the Judiciary, which passed the legislation out by voice vote, and the Committee on Energy and Commerce have ample debate on this legislation before it came to the Committee on Rules and now on to the floor for consideration of by the entire body.

Two Stanford University economists have conducted two extensive studies using national data on Medicare populations and concluded that patients from States that adopted direct medical care litigation reforms, and I will say that again for my Florida colleagues, the study which adopted and concluded that patients from States that adopted direct medical care litigation reforms, such as limits on damage awards, incur significantly lower hospital costs while suffering no increase in adverse health outcomes associated with the illness for which they were treated.

Mr. Speaker, in public opinion, by a survey conducted by Wirthlin Worldwide for Health Care Liability Alliance, 71 percent of Americans agree that the main reason health care costs are rising is because of medical liability lawsuits; 78 percent of Americans say they are concerned about the access to care being affected because doctors are leaving the practices due to rising liability costs; 73 percent of Americans support reasonable limits on awards for pain and suffering in medical liability lawsuits; and more than 76 percent of Americans favor a law limiting the percentage on contingent fees paid by the patient.

This legislation is intended to control escalation in lawsuit damage awards and slow the rising costs of medical malpractice insurance. The HEALTH Act would benefit patients because it will award injured patients unlimited economic damages. It will award injured patients punitive damages of up to $250,000. It will award injured patients punitive damages of up to two times economic damages of $250,000 or whatever is higher. It establishes the rule that allocates damage awards fairly and in proportion to a party’s degree of fault, and it establishes a sliding scale of attorney’s contingent fees, therefore maximizing the recovery for patients. It allows States the flexibility to establish or maintain their own laws on damage awards, whether higher or lower than those provided for in bill.

I hear my time is expiring. I urge a yes vote and in the under-lying legislation, a yes vote for patients and families all across America. Mr. Speaker, I yield back the balance of my time, and I move to reconsider the previous question on the resolution.

The previous question is ordered. The SPEAKER pro tempore (Mr. ISAKSON). The question is on the resolution. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

The Sergeant at Arms will notify absent Members. The vote was taken by electronic device, and there were—yeas 221, nays 197, not voting 14, as follows:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
<th>Not Voting</th>
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<tr>
<td>221</td>
<td>197</td>
<td>14</td>
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Mrs. JONES of Ohio changed her vote from ‘‘yea’’ to ‘‘nay.’’
SEC. 2. FINDINGS AND PURPOSE.

(a) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care. In that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to claims of health care liability and compensation.

(b) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(c) EFFECT ON FEDERAL SPENDING.—Congress finds that the Federal Government makes payments for health care services for individuals representing all claimants in a health care lawsuit as initially included in a health care lawsuit as initially alleged in the future by or on behalf of the opposite party to secure the right to collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant’s recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder.

SEC. 4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant’s economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of non-economic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NON-ECONOMIC DAMAGES.—In any health care lawsuit, punitive damages awarded shall not be discounted to present value. The jury shall not be informed about the maximum award for non-economic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be accounted for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages that together exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party’s separate share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party’s percentage of responsibility. A separate judgment shall be rendered against each such party for its proportionate share. The trial court, in determining the proportion of responsibility of each party for the claimant’s harm.

SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have a right of access to any agreement of a claimant’s recovery to such attorney, and to redirect such damages to the

claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33 percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply to any lawsuit that is brought by or on behalf of the opposite party to secure the right to collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant’s recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder.

SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant’s recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder.

SEC. 7. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is permitted under this section, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that such claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trial court shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, and only determinable by applicable State law, shall be inadmissible in determining whether compensatory damages are to be awarded.

(b) IN DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, the trier of fact may consider only the extent of—

(A) the severity of the harm caused by the conduct of such party;
SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) In General.—If a health care lawsuit, an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) Application.—This section applies to all judgments which have not been first set for trial or retrial before the effective date of this Act.

SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ‘‘alternative dispute resolution system’’ or ‘‘ADR’’ means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ‘‘claimant’’ means any person who brings a health care claim, including a claim that alleges a health care liability claim or action, and any person on whose behalf such a claim is asserted or by action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term ‘‘collateral source benefits’’ means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or federal health, sickness, income-disability, accident or workers’ compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or medical care benefits or income-disability benefits or accident insurance that provides health benefits or medical care benefits;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, dental, or income disability benefits; and

(D) any other public or privately funded program.

(4) COMPENSATORY DAMAGES.—The term ‘‘compensatory damages’’ means objectively verifyable monetary losses incurred as a result of the provision of, use of, or payment for health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of economic opportunities, and all other nonpecuniary losses of any kind or nature. The term ‘‘compensatory damages’’ includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term ‘‘contingent fee’’ includes all compensation to any person or entity required by State or Federal laws or regulations to be licensed, registered, certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(6) ECONOMIC DAMAGES.—The term ‘‘economic damages’’ means objectively verifyable monetary losses incurred as a result of the provision of, use of, or payment for health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of economic opportunities, and all other nonpecuniary losses of any kind or nature. The term ‘‘economic damages’’ includes economic damages and noneconomic damages, as such terms are defined in this section.

(7) HEALTH CARE LIABILITY CLAIM.—The term ‘‘health care liability claim’’ means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term ‘‘health care liability action’’ means a civil action brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term ‘‘health care liability claim’’ means a demand by any person, whether or not pursuant to ADR, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of health care services or medical products, regardless of the theory upon which any of the claims are based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term ‘‘health care organization’’ means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term ‘‘health care provider’’ means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term ‘‘health care goods or services’’ means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, and includes the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term ‘‘malicious intent to injure’’ means intentionally causing or attempting to cause...
physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term ‘medical product’ means a drug or device intended for human use or for use in animals, and includes any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term ‘noneconomic damages’ means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, lost companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term ‘punitive damages’ means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages do not include any economic nor noneconomic damages.

(17) RECOVERY.—The term ‘recovery’ means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys’ office overhead costs or charges for legal services are not deductible disbursements or costs for such purposes.

(18) term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law to effectuate or implement a project to establish a vaccine for a vaccine-related injury or death

(A) this Act does not affect the application of the Federal rule of law to such an action, and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) Actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced on or after the date of manifestation of injury unless the injury, whichever occurs first.

The text of the amendment in the nature of a substitute printed in House Report 107–697 is as follows:

strike after all the enacting clause and insert the following:

SECTION 1. Short title.

This Act may be cited as the ‘Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2002’.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to care and making our health care system less affordable and less efficient. We are not using the health care system as intended, that is to provide a reliable, efficient, and low-cost means of trying to resolve disputes, and to provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to the plaintiff or patient.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care liability system does not improve patient safety and quality of care, and cost-effective health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the funding, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal law of the amount of any claim that is subject to Federal funds because of—

(C) the large number of individuals who are health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ‘defensive medicine’ and lower the cost of health care liability insurance; and

(3) improve the fairness and cost-effectiveness of our current health care liability system by resolving disputes over, and providing compensation for, health care liability by reducing uncertainty in the amount of compensation provided to the plaintiff or patient.

(c) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care liability system does not improve patient safety and quality of care, and cost-effective health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.
SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) Court Supervision of Share of Damages.—In a claimant in a health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party represents all claimants in a health care lawsuit, the court shall supervise the arrangements for payment of damages to the extent that the arrangement is material and is causally related to the harm complained of by the claimant.

(b) Determining Amount of Punitive Damages.—In determining the amount of punitive damages, the trier of fact shall consider only the following:

(1) the severity of the harm caused by the conduct of such party;

(2) the duration of the conduct or any concealment of it by such party;

(3) the profitability of the conduct to such party;

(4) the number of products sold or medical procedures rendered for compensation, as the court determines to be material and is causally related to the harm complained of by the claimant;

(5) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(6) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(c) Max. Award.—The amount of punitive damages awarded in a health care lawsuit may be up to as much as two times the amount of economic damages awarded or $50,000, whichever is greater. The jury shall not be limited by this limitation.

(d) No Civil Monetary Penalties for Products That Comply With FDA Standards.—No civil monetary penalties are imposed on any party in a health care lawsuit for any conduct that complies with the Uniform Periodic Payment Act (21 U.S.C. 301 et seq.) or section 351 of the Uniform Antitrust Act (21 U.S.C. 282) that is material and is causally related to the harm which the claimant alleged suffering; or

(e) A person who brought a health care lawsuit for harm which is alleged to relate to the manufacture or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially or completely compliant with such regulations.

SEC. 6. ADDITIONAL HEALTH BENEFITS.

(a) In General.—In health care lawsuits, the trial court retains the authority to authorize or order the Secretary of Health and Human Services to supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party represents all claimants in a health care lawsuit, the court shall supervise the arrangements for payment of damages to the extent that the arrangement is material and is causally related to the harm complained of by the claimant.

(b) Determining Amount of Punitive Damages.—In determining the amount of punitive damages, the trier of fact shall consider only the following:

(1) the severity of the harm caused by the conduct of such party;

(2) the duration of the conduct or any concealment of it by such party;

(3) the profitability of the conduct to such party;

(4) the number of products sold or medical procedures rendered for compensation, as the court determines to be material and is causally related to the harm complained of by the claimant;

(5) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(6) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(c) Accuracy of Premarket Approval or Clearance.—The amount of punitive damages awarded in a health care lawsuit may be up to as much as two times the amount of economic damages awarded or $50,000, whichever is greater. The jury shall not be limited by this limitation.

(d) No Civil Monetary Penalties for Products That Comply With FDA Standards.—No civil monetary penalties are imposed on any party in a health care lawsuit for any conduct that complies with the Uniform Periodic Payment Act (21 U.S.C. 301 et seq.) or section 351 of the Uniform Antitrust Act (21 U.S.C. 282) that is material and is causally related to the harm which the claimant alleged suffering; or

(e) A person who brought a health care lawsuit for harm which is alleged to relate to the manufacture or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially or completely compliant with such regulations.

SEC. 7. PUNITIVE DAMAGES.

(a) In General.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In a health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to such judgment. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party to a health care lawsuit, the trier of fact shall consider in a separate proceeding:

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

(b) Determining Amount of Punitive Damages.—In determining the amount of punitive damages, the trier of fact shall consider only the following:

(1) the severity of the harm caused by the conduct of such party;

(2) the duration of the conduct or any concealment of it by such party;

(3) the profitability of the conduct to such party;

(4) the number of products sold or medical procedures rendered for compensation, as the court determines to be material and is causally related to the harm complained of by the claimant;

(5) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(6) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(c) Max. Award.—The amount of punitive damages awarded in a health care lawsuit may be up to as much as two times the amount of economic damages awarded or $50,000, whichever is greater. The jury shall not be limited by this limitation.

(d) No Civil Monetary Penalties for Products That Comply With FDA Standards.—No civil monetary penalties are imposed on any party in a health care lawsuit for any conduct that complies with the Uniform Periodic Payment Act (21 U.S.C. 301 et seq.) or section 351 of the Uniform Antitrust Act (21 U.S.C. 282) that is material and is causally related to the harm which the claimant alleged suffering; or

(e) A person who brought a health care lawsuit for harm which is alleged to relate to the manufacture or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially or completely compliant with such regulations.

(f) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval or clearance of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 282) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration in the pursuit of the purpose of either securing or maintaining approval or clearance of such medical product.

SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) In General.—In any health care lawsuit, an award of future damages, without reduction to present value, shall not be informed of this limitation.

(b) Such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and the Secretary of Health and Human Services regulations, including without limitation those related to packaging and labeling, unless the Food and Drug Administration has determined that such product was not manufactured or distributed in substantial compliance with applicable Food and Drug Administration statutes and regulations.

(c) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes a drug or device (including medical products) applicable State or Federal law, shall not be named as a party to a product liability lawsuit involving such drug or device and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or product seller of such drug or device.

(d) Packaging.—In a health care lawsuit for harm which is alleged to relate to the manufacture or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially or completely compliant with such regulations.

(e) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval or clearance of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 282) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration in the pursuit of the purpose of either securing or maintaining approval or clearance of such medical product.
of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COMPENSATORY DAMAGES.—The term ‘compensatory damages’ means objectively verifiable monetary losses incurred as a result of the provision of, use of, payment for (or failure to provide, use, or pay for) health care services or products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, loss of services of a domestic provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings. The term ‘compensatory damages’ includes economic damages and noneconomic damages, as such terms are defined in this section.

(4) CONTINGENT FEE.—The term ‘contingent fee’ includes all compensation to any person or persons which is payable only if a recovery is effectuated on behalf of one or more claimants.

(5) ECONOMIC DAMAGES.—The term ‘economic damages’ means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment opportunities, and loss of business or employment opportunities.

(6) HEALTH CARE LAWSUIT.—The term ‘health care lawsuit’ means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action, regardless of the theory of liability upon which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action involved in the claim, alleges a health care liability claim.

(7) HEALTH CARE LIABILITY ACTION.—The term ‘health care liability action’ means a civil action brought in a State court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability upon which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of causes of action in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY CLAIM.—The term ‘health care liability claim’ means a demand by any person, whether or not pursued through litigation, against any person or entity which is obligated to provide or administer any health care services, or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(9) HEALTH CARE ORGANIZATION.—The term ‘health care organization’ means any person or entity which provides or administers any health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) MALICIOUS INTENT TO INJURE.—The term ‘malicious intent to injure’ means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(11) MEDICAL PRODUCT.—The term ‘medical product’ means a drug or device intended for use in the diagnosis of disease or impairment of, or the assessment of the health of, human beings, and the terms ‘drug’ and ‘device’ have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material material used therein, but excluding health care services.

(12) NONECONOMIC DAMAGES.—The term ‘noneconomic damages’ means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other noneconomic losses of any kind or nature.

(13) PUNITIVE DAMAGES.—The term ‘punitive damages’ means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages include any other economic or noneconomic damages.

(14) RECOVERY.—The term ‘recovery’ means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys’ office overhead costs or charges for legal services are not deductible disbursements or costs for such purposes.

(15) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, and any political subdivision thereof.

SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to any action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act shall be the applicable law (as determined under this Act) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES’ RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), any State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supercede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or a contingent fee, or longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES’ RIGHTS.—Any issue that is not governed by any provision of law established by or under this Act (including State statutes permitting the recovery of a specific dollar amount of damages that is greater or lesser than is provided for under this Act, notwithstanding section 4(a)); or

(1) any State statute (whether enacted before, on, or after the date of the enactment of this Act) that permits the recovery of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, whether or not such statute permits the recovery of a specific dollar amount of damages that is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a defendant in a health care lawsuit under any other provision of State or Federal law.
literation reforms, including caps on noneconomic damage awards, generally reduce malpractice claims rates, insurance premiums and other stresses upon doctors that may impair the quality of medical care.

The HEALTH Act includes MICRA's reforms, while also creating a fair share rule by which defendants are only liable for the percentage of damages for which they are at fault. Additionally, H.R. 4600 sets reasonable guidelines, but not caps, on punitive damage awards. Under this legislation, a punitive damage award cannot exceed the greater of $250,000, or two times the amount of economic damages that are awarded.

The HEALTH Act will accomplish reform without limiting compensation for 100 percent, or all of plaintiffs' economic losses, meaning any loss which can be quantified and to which a receipt can be attached. These include their medical costs, lost wages, future costs, pain and suffering, and any other economic out-of-pocket loss suffered as a result of a health care injury.

Additionally, although this legislation places a cap on noneconomic damages, it also establishes a right for patients to keep more of their jury awards by limiting the percentage that lawyers can collect. This is accomplished according to a sliding scale that caps legal fees down to 15 percent of awards exceeding $600,000. Without such reforms, lawyers can take their standard one-third to 40 percent cut from whatever victims recover. Enactment of this bill will allow victims to keep roughly 75 percent of awards under $500,000 and 85 percent of awards over that amount. Under the HEALTH Act, the larger the demonstrable, real-life economic damages are, the more the victims will get to keep.

A recent survey conducted for the bi-partisan legal reform organization Common Good, whose board of advisers includes former Clinton administration Deputy Attorney General Eric Holder and former Democratic Senator Paul Simon of Illinois, reveals the dire need for regulating the current medical tort system in America. According to the survey, which was conducted by the reputable Harris organization:

First, more than three-fourths of physicians feel that concern about malpractice claims limits their ability to provide quality care in recent years; second, 79 percent of physicians report that fear of malpractice claims causes them to order more tests than they would based only on the professional judgment of what is medically needed.

As former Democrat Senator and Presidential candidate George McGovern and former Republican Senator Alan Simpson have written, "Legal fear drives doctors to prescribe medications and order tests, even invasive procedures, that they feel are unnecessary. Reputable studies estimate that this defensive medicine squanders $50 billion a year. The Common Good survey also asked physicians the following question: Generally speak, how much do you think that fear of liability discourages medical professionals from openly discussing and thinking of ways to reduce medical errors?"

An astonishing 59 percent of physicians replied "a lot."

Americans want to see their friends and loved ones receive the best and most accessible health care available, but, with greater and greater frequency, doctors are not there to deliver it because they have been priced out of the healing profession by unaffordable professional liability insurance rates.

Sound policy does not favor supporting one person's abstract ability to sue a doctor for unlimited and unquantifiable damages when doing so means that health care will become less accessible and more affordable to all Americans, particularly to women, to the poor and to those who live in rural areas.

The American Bar Association estimates that there are 1 million lawyers in the United States. At least 267 million Americans, are patients, and as patients and for patients, I urge my colleagues to support the HEALTH Act.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I begin by commending the gentleman from Florida (Mr. HASTINGS) for conducting a very important and substantive debate on the rule governing this measure that is before us.

Now, let us begin with the fact that this medical malpractice reform bill, except for the fact that there are no constitutional amendments, is the same bill, with a major amendment, brought forward by the gentleman from California (Chairman THOMAS) to the Patients' Bill of Rights last July, and it was turned down, for good reason.

The next thing I should point out is that there is a serious constitutional problem that the American Bar Association has written to me and members of the committee about, a letter that I have for those who still have that reverence for that document, that I am sure you will do.

Now, there has been constant reference to the Medical Injury Compensation Reform Act of 1975 in California. May I point out to all of those who assume that it has been enor- mously successful that the Consumers Federation of America in their report, which reinforces another California report, makes two points: That the per capita health expenditures in California have exceeded the national average every year between 1975 and 1993 by an average of at least 9 percent per year; and that the California health care costs have continued to skyrocket at a rate faster than inflation since the
passing of the Medical Injury Compensation Reform Act.

Inflation, as measured by the Consumer Price Index, rose 186 percent between 1975 and 1993, yet California's health care costs grew by 343 percent during this same period. Moreover, California's health care costs have grown at almost twice the rate of inflation since 1985.

Now, the problem with this bill is that rather than help doctors and victims, this bill really does a great favor to insurance companies, HMOs and the manufacturers of defective medical products and the pharmaceuticals, as usual.

In addition, it also is clear that a legislative solution focused on limiting victims' rights available under our State tort system will do little other than increase the incidence of medical malpractice, already the third leading cause of preventable deaths in the United States of America.

Finally, you should be aware that the drug companies have somehow gotten into the act. As the producer of the infamous Dalkon Shield, the Cooper 7 IUD, high absorbancy Tampons, linked to toxic shock syndrome, and silicon gel implants, all of whom would have completely avoided billions of dollars that they have paid out in damages had this bill been law.

So, Mr. Speaker, I refer you finally to the Consumers Union Report, which points out in detail all of the basic things that have been reviewed here.

Please let us stick to our guns. This is too important a thing to let something as blatantly political go through in the name of helping the victims of medical malpractice in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

We on the Committee on the Judiciary have been wrestling with this issue for many years and have had many different proposals cross our desks on this issue. On the last vote, contrary to what the floor now is that when we were first considering it the problems were terrible. Now the problems are more than terrible, almost unbearable.

Every day, just like in your home States, you hear anecdotes about the giving up of a practice by a physician or the constriction of services to be rendered at a hospital or actually the closing of a hospital, all because of the cost of insurance premiums and the awards granted on behalf of plaintiffs across the board.

What is so good about the plan we have in front of us is, as the gentleman from Wisconsin was able to articulate, that this puts a moratorium on all the economic damages. As a matter of fact, the testimony that we had from the Californians who testified as to the system that is extant in their State was that even though health care costs are rising and we must consider that in the awards that are granted in California, the rising health care costs, even though they go up, are going up incrementally, and the cap on the noneconomic damages remains the same, thus preserving the root of this kind of legislation. It is to allow physicians and hospitals to remain in place across the spectrum of medical services. Why? Because their economic damages of their own, caused by the high insurance premiums and high awards visited against them, would be retarded by this legislation. It would not cure the matter, but it would retard their financial difficulties.

If we want financial difficulties, we give them reason to stay in place, to leave their practice thriving in a particular sector in my State and in yours. It would allow hospitals to be able to budget in such a way, with the sheer pressure of insurance that we hope that this brings about, to be able to extend services or remain in place over a long period of time, where otherwise, with the high costs now seen across the Nation, they are incapable of maintaining their own level of services. So this is the time to bring about a great reform.

I remember in 1995 we were on the floor with a different version of this bill and many of us thought we had a great chance of passing it. But for one reason or another, it did not occur. All I do now is repeat that that was then when the situation was very bad; today it is much worse, and we have a chance to strike a blow at this emergency right now.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to my friend from Massachusetts, I think we ought to make sure we are all talking about the same bill.

On page 5 of this bill we eliminate the doctrine of joint and several liability, meaning that if one person does not have enough money, then nobody else is responsible for them paying for the damages.

Number two, the statute of limitations is reduced to 3 years, and that is on page 3. What that means then is if a person with AIDS dies in 6 years, they just missed out, because the statute of limitations would now be 3 years.

For my friend from Pennsylvania's information, this bill does cap non-economic and punitive damages.

Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY), from the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me time.

So the Republicans say that they have identified a big problem: Insurance premiums for physicians are skyrocketing, and we have to do something about it.

What is their solution? Just what the insurance companies ordered for a solution: A cap on noneconomic damages at $250,000; pain and suffering, all that. The jury is now told that the limit is $250,000, so they could come back with a $1 million verdict, but only $250,000 to the victim.

But their bill does not say that the savings goes to physicians. No. They have all the money go to the insurance company executives.

Now, last night I made a request to the Republicans that I be allowed to make an amendment that says that any amount of money that a jury renders above $250,000, let us say $1 million, that the court would then give that money over to a court-appointed trustee and the court-appointed trustee would then ensure that the insurance premiums for the physicians inside that area would be lowered.

The Republicans prohibited that from coming out here because that would guarantee that the physicians would be the beneficiaries, not the insurance industry. And what is the problem? Well, the insurance company executives have a fiduciary relationship to their shareholders, to their wives, to their children, to maximize profits for themselves. That is a legal responsibility.

If we are going to pass this bill and limit the ability for victims to recover, then the only justification should be that physicians' premiums go down, and that is the one big missing link in the Republican bill. There is no requirement that the insurance companies lower the premiums for doctors, and that is what the Democrats are trying to do, to help the patients, to help the doctors. And what is the Republican Party doing once again? They are bringing out the agenda of the insurance industry.

If we have learned anything from the accounting practices across this country, it is that it is impossible to know where those savings would have gone.
Ms. HART. Mr. Speaker, I rise in support of the legislation. Many of my colleagues today have made claims that this bill is bad, as we just heard, that this is just what the insurance companies want. And what the insurance companies want is to take control of our health care system. This bill is just another attempt by the insurance companies to make sure that our health care system is not accessible to those who need it. And I believe that the majority of us will support the HEALTH Act, a wonderful bill by the gentleman from Pennsylvania (Mr. GREENWOOD) and a bill that we should all support to make sure that our constituents have access to the health care they need.

Mr. WATT. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

We are going to see many crocodile tears shed this afternoon on behalf of physicians and their high premiums. But this bill will help the Democrats to make an amendment that ensures that all of the savings that come from the limits on how much a patient can recover goes to lower insurance premiums. They refuse to allow us to even make the amendment because they are going to allow the insurance industry to pocket this money. That is what this bill is all about. It is about the insurance companies, not about the physicians. We support the physicians.

Mr. WATT. Mr. Speaker, I am sorry I corrected the other side in connection with their understanding of their bill which may have brought about an overreaction about what Democrats do not want to happen to the health system in America. I apologize for that.

Mr. Speaker, I yield 2 minutes to our very distinguished colleague, the gentleman from North Carolina (Mr. WATT), on the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I have to say with respect to all my colleagues that I think we have lost sight of what this bill is all about. When we start debating the merits or demerits of this bill, we miss the point. The point is that in North Carolina if I walk into a physician's office, all of that treatment takes place right there in North Carolina, and historically the tort law and medical negligence law has been determined by State; and were I in the State legislature of North Carolina, all of this discussion that we are having would probably be a very appropriate debate.

But for people from Congress saying that they believed in States' rights and the federalist form of government that we have, this debate is totally misplaced. It would be like us saying, well, we are very dissatisfied with the schools all across the country; therefore, we are going to federalize the whole education system in America. That is what this debate reminds me of.

Mr. Speaker, Republican colleagues, in 1995, told me that they believed in States' rights. And ever since then, they have been trying to federalize the standards on everything that has traditionally been done at the State level, and this is just another one of those examples. When I raise this point, nobody seems to care. Well, my Constitution says that unless there is some interstate commerce connection, and I have not seen any medical practice take place across State lines since I have been here to do just that, there is some kind of Federal nexus here, why are we debating tort reform here, rather than having the gentlewoman from Pennsylvania (Ms. HART) go back and tell her State legislators that they need to address this problem? If they are losing doctors in Pennsylvania, then they ought to address the problem in Pennsylvania and solve the problem there, not federalize the issue.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to H.R. 4000, a bill to protect doctors, other health care providers, drug companies, and manufacturers of medical devices from the consequences of their own negligence. It reduces compensation for severely injured people in order to save money for negligent providers and their insurers.

This is a congressional power grab to take over tort law from the States. Many States, including Maine, have
held down malpractice premiums without stripping compensation from severely injured plaintiffs. Maine requires a review of malpractice claims by an independent panel within 90 days of the plaintiff's filing a claim. I served on two of these panels before I left the practice of law. The result is that cases are settled early without an arbitrary cap on damages.

I believe that we here in the Congress should deal with our issues and leave the State law issues to the States. We do not need to go over State legislative responsibility.

We are now in the fourth week since the August recess, and not one single appropriations bill that we ought to be dealing with has come to the floor of this House; instead, we are spending our time dealing with matters more appropriate for State legislators.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. Inslee).

Mr. INSLEE. Mr. Speaker, I would just like to tell my colleagues about a woman, I will call her Jane, and she is a citizen of the State of Washington. She went in for a routine test, a mammography, a biopsy was done, she was diagnosed as having breast cancer. She had a double radical mastectomy because of that diagnosis. She then developed another blood clot that caused gangrene in her leg, and they had to cut off her leg.

Some time later, a subsequent review, a quality control assurance review, found that the diagnosis was inaccurate. The pathology report was flat dead wrong. She never had cancer, she never had anything that required significant surgery. She is a woman without breasts, without a bowel, and without a leg due to a failure, either of a physician or of a medical device, both of which would be affected by this legislation.

Now, I do not know what is just to do in Jane’s situation, but I do know this: the first people that should be making that decision are 12 of her peer citizens sitting in a jury box looking at the evidence, the second should be the State legislature, and the last should be the U.S. Congress. We should reject this legislation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Nadler), one of our ranking members of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, this bill is a cruel attempt to protect insurance companies by trampling the rights of consumers.

We are told today the bill is necessary due to white collar insurance fraud, because juries award too much money to plaintiffs. But that is a diversion from the real problem, which is very simple: mismanagement by the insurance companies. Insurance companies make their money by investing the premiums they collect in the stock market. When the market is strong, they keep premiums artificially low, because they can make plenty of money in the markets. When the market turns, they automatically increase premiums to cover their costs. It is a predictable cycle, and that is why once about every 10 years when the market goes south, we hear of a great crisis which is then blamed on the lawsuit system. But that is not the case.

Mr. Speaker, lawsuits account for the same minuscule fraction of health care costs as they always have. Studies have shown the average jury award has not changed at all in the last decade, so why the sudden crisis? Because the market is in a tailspin and the insurance companies need to recoup their losses because they kept the rates too low during the good years. But why is it that we have to bail out the failed management of these companies? And who seriously believes that premiums will go down if this bill is passed?

As Debora Ballen, executive vice president of the American Insurance Association, “Insurers never promised that tort reform would achieve specific premium savings,” just savings to their bottom line, I guess. And, of course, the Republican Committee on Rules refused to allow an amendment that would say that they have to pass on the savings to the doctors, to the consumers.

In pursuit of this giant bailout, what we have here is a breathtaking assault on the rights of consumers and patients. Take the $250,000 cap on non-economic damages, a figure that might have been reasonable in 1975 when the MICRA law was written in California; it is woefully inadequate today. The equivalent today would be $1.5 million. Again, the Republican Committee on Rules refused to allow an amendment to even say, okay, $250,000, we will put in an inflation amount to adjust it, so it does not decrease to nothing with inflation. If we maintain this cap now, it will be impossible for consumers to hold doctors accountable for malpractice in the future.

Not content merely to cap malpractice suits, this bill also guts, guts State HMO laws, protects big drug companies and medical product manufacturers, makes punitive damages almost impossible to assess, and places an unreasonable statute of limitations on injured patients.

Mr. Speaker, we should not be misled by the bill’s supporters. Do not believe for a second that insurance rates will go down as a result of this bill. This cruel bill should be seen for what it is: an attempt to throw the American majority to the big insurance companies at the expense of patients, consumers, and, I might add, doctors.

This irresponsible bill should be disapproved.

Mr. SENSENIBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Cox).

Mr. COX. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, we are here because of patients. Patients are not getting care. Trauma centers are closing. Emergency rooms are closing. OB-GYNs are leaving their practice. Women are without health care. That is why we are here.

On June 30 of this year, Methodist Hospital in south Philadelphia, which had been delivering babies since 1892, closed its doors. They closed their maternity ward and they stopped delivering babies. This is going on all over the country.

In Nevada, in all of southern Nevada, now, there is no trauma center. Southern Nevada’s only trauma center closed its doors in July. Las Vegas now is the only city of its size without any care for such people in these circumstances. Our intention is to ensure that no more patients are denied the care they deserve.

We have heard there was a Democratic amendment that should have been made in order that would have ensured that savings from this bill, which the Congressional Budget Office estimates at $14 billion, $14 billion more available to go into health care, into Medicare, into Medicaid, into our educational system, into quality of care, that we should have had this amendment that guaranteed that savings went to doctors.

Somewhere should ask whether the doctors supported that amendment, because they did not. The way this amendment was written, the premiums would still have been high because the awards still would have had to be paid, this time to a trustee instead of to the trial lawyers, but the premiums would not have come down. That is why doctors did not support the amendment.

Somebody made the claim that the Dalkon shield case, bringing up the old horrors of the past, that damages would not have been awarded in that case had this bill been law. That is completely false. In 1976 Congress changed the law, post-Dalkon shield, to require pre-market approval for devices. The House and Senate reports on that legislation specifically mentioned Dalkon shield as something that would have been kept off of the market if we had had pre-market approval in the law.

This bill says is if a device has been approved by the FDA, then there will not be punitive damages; in other words, if people comply with the pre-market approval requirements, why should the lawyers be able to claim that there was some kind of willful, egregious, and so on kind of injury committed.

In California, we have had this system a long time. I have heard some people say that California’s premiums have gone up faster than inflation. Of
course they have, they have gone up 150 percent since this law has gone on the books. But at the same time, we have to tell the whole story, malpractice premiums in the rest of the country have gone up 500 percent. This has saved a great deal of money for us in California.

Medical liability insurance premiums in constant dollars have actually fallen in California by more than 40 percent, and injured patients are receiving compensation quickly in California, far more than in the United States as a whole. Injured patients receive a larger share of the awards.

This is all about patients; it is all about making sure that their doctors can serve them. That is why doctors support this bill. That is why patients support this bill. It is why it is high time that we pass this bill.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to my friend, the gentleman from California (Mr. Cox), I say, please check the punitive damages that the Dalkon shield Cooper 7 IUD, the hundreds of millions that they would have not had to pay had this bill been in effect.

Mr. Speaker, I yield 2 minutes to my friend, the distinguished gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, someone needs to stand up for American physicians. Someone needs to stand up for the American health care system.

What is the problem? Malpractice premiums have skyrocketed. What is the answer proposed by our friends on the other side? It is H.R. 4600. Let us make no mistake about it, H.R. 4600 is a hoax, it is a sham, and our friends know it. It is a sham on the American medical establishment by the insurance carriers, who want to limit their exposure but will not commit to reducing premiums.

Please read the bill. H.R. 4600 limits the amount that carriers pay for legitimate claims, but it has absolutely no provision requiring reducing premiums; none, zero, zilch, nada, nothing, and they know it. It is a scam.

In fact, Mr. Speaker, in States that have enacted caps, the malpractice premiums are higher than in States that have no caps. But the carriers do not want to tell us that. Why? That is because their interests are in conflict with the medical community.

I want to ask a question: Do the words “Patients’ Bill of Rights” ring a familiar note? What causes the problems? It is not physicians, it is not patients, it is not even the lawyers they are talking about; the problem is the malpractice insurers. In fact, when it was exiting the market, said they paid too much in claims; but, oh, yes, they forgot to mention they lost $108 million in Enron. Every time the market goes down, they claim a medical liability crisis. How convenient is that?

The truth is that the carriers are asking doctors, hospitals, and patients to pay for their bad investment decisions. It is as simple as that. They know it. We have asked the insurance carriers to put in this bill a requirement to reduce premiums. They will not do it. They will not talk about it. That is because they know they are going to the courthouse. It is a scam on the entire system.

There are a lot of other problems. At least 31 States have found portions of this bill to be unconstitutional. It does limit economic damages because it gets right to the heart of liability. They know that. They know it limits economic damages.

Let us just get right back to it. It boils down to this point: It helps the insurance carriers; it does nothing for the physicians and nothing for the patients, and they know it.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE) to conclude the debate on our side of the aisle.

The SPEAKER pro tempore (Mr. GUTENBERG). The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 2 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member, for yielding time to me.

Mr. Speaker, time is short for an important step for America, and that is, of course, something that probably we have not debated on this floor. We do not make light of the horrific tragedy of 9/11, but what it caused Americans to do is to reinforce their commitment to our values. Part of that is the judicial system, which allows Americans to go into a courthouse and address their grievances, away from violence and intimidation.

It is interesting that we would come back to the idea that this bill will help prevent patients, doctors or their patients.

In California, where tort reform has been the strongest and has had almost three decades to work, premiums are still 8 percent higher than premiums in States without noneconomic damage caps. Medical malpractice insurers in California pay out less than 50 cents in claims on every dollar they bring in through premiums. Obviously tort reform is lining the coffers of insurance companies and not getting to doctors or their patients.

It is surprising that supporters of this bill are presenting it as a means to decrease premiums, when those in the know, such as the executive vice president of the American Insurance Association, and American Tort Reform Association president, both have stated that limitations like those in this bill will not necessarily decrease premiums.

I am also confused about where this arbitrary cutoff of $250,000 for noneconomic damages comes from. It happens to be the same number used in similar legislation passed 27 years ago in California, with no adjustment for inflation or changes in costs of living. Due to skyrocketing health care costs, $250,000 will only get an injured person about $40,000 worth of care.

The bill does not cap economic damages— which is good news for those with high incomes. Rich people will be able to stay rich...
and perhaps that is appropriate. But what about mothers who work at home raising their children, or the elderly on fixed incomes? They will not be able to claim large economic damages due to losses in income. If they are crippled or blinded by a negligent HMO, or a pharmaceuticals company, they may get their $250,000, but more they will receive 8 or 9 thousand dollars per year. That is a pittance for someone working through the tough times after a catastrophic injury.

Perhaps that would be a fair sacrifice if the funds would go to our hospitals or public health clinics, but to increase revenues of insurance companies? I say no.

Furthermore, since we do not have a bill before us today that would limit liability insurance, or would decrease the number of frivolous lawsuits, perhaps we should leave it to the States to decide how to address these issues. California is not the only State in the Union that is working to tackle these problems; Texas has worked to solve this problem and has put forward a better solution. H.R. 4600 would override such local efforts and compromise the rights of States, and probably not help improve the health of a single American, except maybe a few insurance company CEOs.

I encourage my colleagues to vote against H.R. 4600.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 1 minute.

Mr. SENSENBRENNER. Mr. Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) is dead wrong. This bill is dead wrong. Let us settle that.

Mr. Speaker, I support medical malpractice reform, but I oppose this bill. H.R. 4600 lays the blame for rising medical malpractice premiums on individuals whom a court and jury determine were negligent. H.R. 4600 cap noneconomic loss awards. And by the way, to cap the awards that promises wealthier patients larger rewards than other patients. This bill apparently says those who are more wealthy suffer more than those who are not.

H.R. 4600 will also shield HMOs that fail to provide timely needed care. It would shield drug companies whose medicine has toxic side effects. It would shield manufacturers of defective medical equipment. In this bill, businesses are never at fault. Patients are always at fault. Jurors are misguided. It is patients’ fault. That is the problem.

Mr. GREENWOOD. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I support medical malpractice reform but I oppose this bill. H.R. 4600 lays the blame for rising medical malpractice premiums on individuals whom a court and jury determine were negligent by high professional liability insurance premiums. We will not force maternity wards and trauma centers to close their doors for the same reason.

The time has come to put some sense in this system. California did that. They do not have a crisis there because their State legislature did that. We now have to step up to the plate and work for the patients, particularly in the States that are listed in red and in yellow on the map that was referred to by the gentleman from Pennsylvania (Ms. HART).

Pass the bill.

The SPEAKER pro tempore. All time for the Committee on the Judiciary has expired.

The gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Ohio (Mr. BROWN) each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, as usually happens at this time in the debate, the rhetoric gets hotter and we tend to find ourselves at our most cynical attitudes. But let us see if we can do a little better than that in the next 20 minutes.

The fact of the matter is that we do not accuse the Democratic Party of being the lackeys of the trial lawyers, and the gentleman from Wisconsin is recognized.

But what we all should care about is our constituents. We should care about the pregnant woman, we should care about an individual harmed in an automobile accident, we should care about their access to health care.

Also, we should care about them if they cannot find a doctor. We should care about them if the trauma center is closed and cannot save their lives. We should care about them if they are injured by a doctor. It is not either/or.

We have a crisis in this country right now. It is nearly countrywide. The crisis is that the cost of medical malpractice insurance has skyrocketed to the point where obstetricians cannot deliver babies anymore, where neurosurgeons are leaving trauma centers, where trauma centers are closing their doors. We are very close, if we are not there already, to Americans dying because they cannot get emergency care and the quality of our health care system deteriorating across-the-board.

There is a solution. There is a solution here that enables us to care about our constituents when they are struggling to find care or emergency care, and care about them when they are hurt by a physician and they have a legitimate claim. That has been modeled in California.

I have heard my constituents argue erroneously that capping noneconomic damages will not affect premium rates. That is dead wrong. Let us settle that.

There is the chart. The source here is the National Association of Insurance Commissioners.

This chart tells the whole story. While California premiums have stayed flat for the last 25 years, the rest of the country’s rates have soared. This is the solution. We all ought to work on it together, get it over to the Senate, and save America’s health care system.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I support medical malpractice reform but I oppose this bill. H.R. 4600 lays the blame for rising medical malpractice premiums solely on individuals whom a court and jury determine were negligent by medical malpractice. Apparently Congress knows better than judges, juries and patients; but we do not know better than insurers.

This bill does not have a single provision acknowledging the insurance industry’s role in this crisis for skyrocketing premiums. Insurers have tripled their investment in the stock market over the past 10 years. Of course, now they are trying to recoup their losses.

Democrats have tried to negotiate with the majority to even look at this issue. But the majority rejected every attempt to force the insurance industry to assume any responsibility for its premium premiums increases. There are avenues we could take to stabilize medical malpractice premiums, loss ratio requirements, reinsurance pools, transparency to help us see exactly why insurers are raising their rates.

Doctors and hospitals in Mississippi are streaming into Louisiana because they do not have those protections in
Mississippi and people in Mississippi are losing access to quality health care. Let me tell you, I do not care whether you have insurance or not. You can have all the insurance in the world; if there is no doctor to serve you, if there is no emergency room to go to, how do you take care of yourself? This bill makes sure we have doctors and hospitals and emergency rooms in America.

Mr. Speaker, I rise in strong support of H.R. 4600, legislation to ensure that patients have access to high quality health care.

When injured patients have to wait, on average, 5 years before a medical injury case is complete, our judicial system has failed. When injured patients lose 58 percent of their compensation to attorneys and the courts, our judicial system has failed. When 60 percent of malpractice claims against doctors are dropped or dismissed, but the fear of litigation still forces doctors with 25 years or more of experience to retire early, our judicial system has failed.

What my home State has in place and what California have benefited from for over 27 years are commonsense guidelines for health care lawsuits. These guidelines ensure that injured patients receive greater compensation to injured patients receive greater compensation and that frivolous lawsuits are limited.

The reforms in this bill will work. According to the Congressional Budget Office, H.R. 4600 would lower the cost of malpractice insurance for hospitals, physicians, hospitals, and other health care providers and organizations. That reduction in insurance costs would, in turn, lead to lower charges for health care services and procedures, and ultimately, to a decrease in rates for health insurance premiums. Even better, CBO estimates that, under this bill, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law.

That means that Congress really has an opportunity to pass legislation that will address a direct impact on patient access to care. With these reforms, patients will have greater access to health insurance. With these reforms, doctors will stay in business and not be forced to move to another State, or even worse, drop a specialty practice altogether. With these reforms, patients will have greater access to providers so they will actually receive “health care.”

The issue at hand today is fundamental to all of the deliberations we make with regard to health care policy. We all recognize that health care costs money, and that high health care costs are a barrier to health care. But, even if a patient has health insurance, what is that insurance coverage worth if there are few doctors available to treat you?

This bill before us will have a tremendous impact on physicians, hospitals, and other health care providers and organizations. That reduction in insurance costs would, in turn, lead to lower charges for health care services and procedures, and ultimately, to a decrease in rates for health insurance premiums. Even better, CBO estimates that, under this bill, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law.

You know what, I am really tired of people not telling the truth on the floor of the House. Hospitals are not going to stay open any longer because of this bill. People are not going to get any better health care because of this bill.

What is going to give them better health care is if this Congress will go ahead and give people universal health care. The fact is that H.R. 4600 introduced under the guise of fixing the problem of rising costs of malpractice insurance does not say anywhere that insurance companies will be required to reduce premiums. Nowhere does it assure that any savings that the insurance companies get will be passed along to the doctors.

The shame of it all is it is taking away the ability of judges who served, like me, the ability to determine when punitive damages ought to be awarded. It is taking away the ability of people who are injured to have the ability to bring their claim in court. The reality is that this bill does none of the things that have been claimed by the other side.

Now, the hospitals are going to be open in Cleveland, Detroit, New York as a result of this; and nobody is going to get better health care. I say to my colleagues vote against this legislation. It does nothing to help our patients.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the gentlelady for yielding me time. Mr. Speaker, unlimited liability is an unacceptable drain on our health care system today. It is about access to care. It is about unreasonably costs from defensive medicine. We have got to make a change before it begins to truly affect our patients any more than it already has.

Now, I understand that people who have been injured by medical malpractice do not know what in response to what the gentleman from California (Mr. WAXMAN) has just shared with us. Mr. Speaker, unlimited liability is an unacceptable drain on our health care system today. It is about access to care. It is about unreasonably costs from defensive medicine. We have got to make a change before it begins to truly affect our patients any more than it already has.

There has got to be a figure out there somewhere that is enough. Saying that no figure is enough and that we can never place a limit, some reasonable limits on noneconomic awards, is to condemn the patients to lesser care as this reckless liability system takes its toll on our health care system today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN), my friend on the committee.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, 1 minute. There is not a lot I can say in 1 minute, but let me say the following: the Republicans seem to think that Washington has all the answers right here, and we ought to take it away from the States to make their own decisions, and I think that is a completely wrong approach.

They would impose a bill to be in place for all of this country when there are a lot of differences and a lot of different approaches to issues like tort liabilities, licensure of professionals to handle the doctors. But supporters of this bill claim it is modeled after the California Medical Injury Compensation Reform Act, but the liability limits in this bill go far beyond medical malpractice. They extend to any lawsuits relating to any health care or medical product including the manufacturers and distributors of drugs and medical devices. This is far beyond the liability limits adopted in California or, as far as I am aware, any other State. So I oppose this bill.

I know that they are trying to do something about the medical malpractice problem, but I do not think it answers the problem; and I think it makes it one-size-fits-all, and it is not the right approach.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, today I rise in strong support of H.R. 4600, the HEALTH act. Since other speakers, Mr. Speaker, have effectively described the extent of our problem and the need for a solution, I want to emphasize one feature of the bill that is very important to me, and this is actually somewhat in response to what the gentleman from California (Mr. WAXMAN) has just shared with us.

While H.R. 4600 does cap noneconomic damages, which I believe will help bring stability and predictability to the medical liability insurance market, it also does protect States’ rights, since any State cap on noneconomic punitive damages, up or down, will supersede the Federal limits. And that is why I feel this bill strikes the right balance between the need for Federal action and the States’ traditional role as the primary regulator of insurance markets.

Mr. Speaker, I believe I can stabilize our out-of-control medical liability system without harming the ability of patients to recover adequate compensation when they have been harmed. We can do this by passing H.R. 4600 today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Pennsylvania (Mr. DOYLE).

Mr. DOYLE asked and was given permission to revise and extend his remarks.)
Mr. DOYLE. Mr. Speaker, I rise in opposition to H.R. 4600. We do have a problem with physicians and hospitals paying too much for malpractice insurance, but H.R. 4600 is not the answer.

The cap on H.R. 4600 is based on a 1975 California law that has already failed. The law has not adjusted for inflation and would have a value of slightly more than $40,000 today. This 1975 base cap penalizes the most vulnerable victims of medical malpractice: children, homemakers, the elderly and minorities — society members who have limited income and will benefit less from future economic earnings.

Nearly 12 percent of Americans currently live in poverty and would depend on noneconomic damages to live on if injured.

In my home State of Pennsylvania, the people have decided against caps by including a prohibition on caps in our State constitution. Like them, I do not believe a cap on damages will do anything to reduce insurance premiums or ensure availability of health care. But I realize the issue of a cap is a good starting point for discussion. Members like myself want to compromise and work on real solutions for the problems. Let us vote against this bill and start on a compromise that truly will reduce premiums.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I am pleased to announce that the chairman of the Senate Finance Committee has just endorsed the Medicare provision for low-reimbursement States like Iowa that we passed in our House prescription drug bill.

What does that have to do with this bill? Well, Iowa ranks dead last in terms of Medicare reimbursements. When we have increased premiums for malpractice and our physicians and other practitioners have already dead last in terms of Medicare reimbursements, the increase in the malpractice premiums means that many patients may not have a doctor in the State of Iowa.

What is the situation in Iowa? Well, when St. Paul went out of business, some physicians in Iowa were able to pick up coverage from Wisconsin; but it would be my prediction that in the next 12 to 18 months, unless there is some fix in terms of the malpractice premium situation, Iowa is going to be facing the same type of crisis that many of the States that have been talked about already today will be facing. So these are two inter-related issues. I am very pleased to support this bill.

ANNOUNCEMENT BY THE SPEAKER pro tempore

The SPEAKER pro tempore (Mr. GUTKNECHT). The Chair would admonish all Members that references to legislative positions of Senators must be confined to their factual sponsorship of bills, resolutions or amendments.

Mr. GREENWOOD of Ohio, Mr. Speaker, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong opposition to H.R. 4600. At first blush this bill sounds great. That is why some medical professionals are supporting it. We definitely need to do something about skyrocketing malpractice costs that are driving good doctors out of their offices and away from their patients, but this is not the way.

As a physician myself, I have thought about this bill until I realized it exempted manufacturers of drugs, products and HMOs from liability. Once again, the doctors are the only ones liable. Everyone else, those who put the products in our hands, those who dictate what we do, would be off the hook.

This bill does nothing to guarantee that medical malpractice premiums will actually be reduced. In California, which the Republicans cite, doctors' premiums have grown 3.5 percent from 1991 to 2000 compared with the national increase of 1.9 percent. This is not the kind of tort reform we need. This is a terrible bill, and I urge my colleagues to oppose it.

The SPEAKER pro tempore. The Chair would advise that the gentleman from Pennsylvania (Mr. GREENWOOD) has 3-5/8 minutes remaining. The gentleman from Ohio (Mr. BROWN) has 4 minutes remaining.

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of H.R. 4600 because it strikes an appropriate balance between the needs of patients who have been harmed to seek redress and the needs of all patients to have access to health care.

I note my colleague from the Committee on Energy and Commerce, the gentleman from Massachusetts (Mr. MARKET), was concerned about whether premiums would go down or not. I would like to quote the Congressional Budget Office's report that was ordered by the Committee on the Judiciary. CBO estimates that under this bill premiums for medical malpractice ultimately would go down on an average of 28 to 30 percent. So I would welcome the gentleman to read that.

I also particularly support section 11 that provides flexibility to the States. I think that is smart to do that. Indiana has a very good law that has been in place for over 3 decades. It is comprehensive medical malpractice reform. The system works well. It has a medical review panel.

It also limits recovery from lawyers. The total recovery is capped. Attorney's fees are capped. We have a compensation fund managed by the State, and injured patients receive compensation in a timely fashion. I would like to thank the chairman for permitting this one item of flexibility in the bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS asked and was given permission to revise and extend his remarks.

Mr. ANDREWS. Mr. Speaker, I thank the chairman and ranking member, soon to be chairman, my friend, for yielding me the time.

There is a malpractice insurance crisis in our country. The woman who delivered my two daughters no longer delivers babies these days because of that crisis, and I understand it. I also understand the way to end that problem is to enact the greatest transfer of income in history from victims of medical malpractice to insurance companies, and that is what this underlying legislation does.

What it says is that people who have been the victims of medical mistake, medical malpractice and medical error will see an arbitrary ceiling on what they can recover when something has happened to them. What the bill does is that it would no doubt accrue to the benefit of insurance companies must accrue to the benefit of the physicians who paid in malpractice premiums.

The iron rule of insurance law in America is when insurance companies get the money they keep it. They do not share it with the doctors. They do not share it with the patients. They keep it. This is an insurance company so close to a tax at a time when our physicians and patients need relief.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in support of this act. In my home State we now have a crisis. Our legislature cannot reach agreement. It cannot enforce or enact any type of boundary or set of limits that will give us some predictability and stability and predictability and certainty for our medical community. We have acute shortages of nurses, OB/GYNs, of neurosurgeons. Our trauma care, if there is a car accident, this is becoming a matter of life and death in Mississippi.

We needed to do something here so that we can help in Medicare and Medicaid and for our veterans so that we can help have the nursing and the physician professionals stay in business and stay in a very noble calling to heal the sick and to make well those who are hurt and injured.

If we do not do this, we will see health care in places like Mississippi diminish. It will not be affordable. It will not be accessible. I know from personal experience.

My mother just had open heart surgery. My sister just had cancer surgery. On one day we had new life in our family. On the next day my mother got a new heart. We must have the medical care and we need this act to contain the costs and to keep those who have medical patients.
The SPEAKER pro tempore (Mr. GUTENBRET). The gentleman from Ohio (Mr. BROWN) has 3 minutes remaining and the gentleman from Pennsylvania (Mr. GREENWOOD) has 1 3/4 minutes remaining. The gentleman from Pennsylvania (Mr. ROEPKE) has 1 minute to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, I yield the gentleman from Pennsylvania (Mr. GREENWOOD) for the work he has done on this. What this bill is really about, it is about affordable, accessible, available and quality health care. Whatever else is said really makes very little difference if we cannot have health care access in all of America.

Some are saying this may limit the particular damages individuals injured may get, but in fact, the truth of this bill, the damages that a patient incurs are not limited in this bill, and it has proved very effective. The economic damages are unlimited. The punitive damages are up to twice the economic damages, which makes those unlimited virtually.

Let me say this. I do not begrudge personal lawyers having seven digit incomes. That is not the issue here. The issue is the siphoning of money out of the health care system that goes somewhere else, money that could be used to deliver health care.

There is a lack of accessibility. There are some in rural America, if we do not pass legislation like this, either on the Federal level in many States, that are going to have to drive an extra mile to get looked at. That means that a patient is going to be injured, a child is going to be lost or another individual will not receive the health care. I think it is imperative that we pass this legislation. I want to thank the leadership on this.

Mr. BROWN. Mr. Speaker, I yield our final 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE), who has been a leader for patient’s rights.

Ms. DEGETTE. Mr. Speaker, as a former State legislator, I am continually amazed how this Congress seems to think that we are the ‘super’ State legislature and that we should solve all the problems that we in our cynicism do not think the States can solve. The truth of the matter is, the States are struggling financially from staffing shortages and millions of dollars of damages available to plaintiffs for their health care and their lost wages and many, many other economic damages. It puts a cap as a floor of $250,000 for non-economic, non-calcifiable, economic damages and allows every State in the union that wants to raise that to whatever they see fit.

The fact of the matter is that this bill tips the scales back so that they are in balance. This bill allows 100 percent of the millions of dollars of damages available to plaintiffs for their health care and their lost wages and many, many other economic damages. It puts a cap as a floor of $250,000 for non-economic, non-calcifiable, economic damages and allows every State in the union that wants to raise that to wherever they see fit.

This is the opportunity now to decide whether this House will stand up to the crisis and solve it or turn its head and let it fester for another 20 years.

Mr. CHAMBLISS. Mr. Speaker, the American Medical Association has declared Georgia is one of twelve states with a medical malpractice crisis. About four in every ten hospitals in Georgia are now facing liability insurance premiums that have increased by more than 50 percent, and one of every four of those facilities has been hit hard with increases that exceed 200 percent. The St. Paul Company was the second largest health care underwriter in Georgia. When it ceased writing medical malpractice insurance policies last December, around 42,000 physicians nationwide had to scramble for coverage and protection. Some still have not found new insurance. Radiologists, OB/GYN specialists, and surgeons are among the groups hardest hit by these rising rates.

Many of Georgia’s 178 hospitals already are struggling financially from staffing shortages and financial pressures. Some hospitals in the state have been forced to scale back services, retire early, and reduce care to the poor. Like physicians, hospitals are having a difficult time finding medical malpractice insurance because with the skyrocketing cost of litigation several providers have ceased writing coverage altogether.

I would like to share some examples to demonstrate the severity of this problem in Georgia:

There is an 80-bed hospital in Alma, Georgia, which is in the 8th Congressional district, that was forced to take out a bank loan to cover a medical malpractice insurance premium that more than tripled in one year (rising from $118,000 to $396,000). Memorial Hospital and Manor in Bainbridge, Georgia was faced with a staggering 600 percent increase on its existing policy (increasing from $140,000 to $970,000).

According to WebMD Medical News, Dr. Sand Reed in Thomasville, Georgia, an OB/GYN, said her medical malpractice insurance increased 30 percent just this year. She is considering giving up delivering babies. She should not be forced to make these choices and her patients will suffer when they lose her expertise and experience in this area.

According to the Atlanta Journal Constitution, Ty Cobb Health, a consortium of three rural Northeast Georgia Hospitals and nursing homes, received a 469 percent increase on its existing policy (increasing from $553,000 to $3.15 million—a 469 percent increase. They eventually got an extension but did the insurance company increase his deductible ten fold, but the premium jumped from $553,000 to $3.15 million—a 469 percent increase. They eventually got an extension but can no longer plan for expansions or renovations of their emergency room.

In Fitzgerald, Georgia, Dr. Jim Luckie, has quit delivering babies because his premium...
was so high. His liability insurance expired in April and it took him six weeks to get a new policy. When his insurance premium more than doubled, the family practitioner decided to discontinue the OB portion of his medical practice.

Dr. Edmund Wright, also of Fitzgerald, is a family practitioner who performed Caesarean sections and has had to give up that part of his practice. His premiums quadrupled to $80,000 this year and would have been $110,000 had he continued the surgical delivery procedure, which insurance companies consider "high risk." In 2000, Georgia physicians paid more than $92 million to cover injury awards. That amount was 11th highest in the nation despite Georgia ranking 38th in total number of physicians in the U.S. It’s clear Georgia is in a medical malpractice crisis.

Substantial medical malpractice reform is critical. The current system is destroying the doctor-patient relationship. I have talked extensively with the members and leadership of the Medical Association of Georgia, and have met with many physician groups, as well as with patients and it is clear that we need to reform our current system for the sake of our patients, physicians, and hospitals. We need a system that allows any patient the right to pursue any cause where injury is the result of negligence. At the same time, we need a system that provides reasonable protection to hospitals and physicians.

Without the important reforms included in H.R. 4600, physicians and hospitals will continue to struggle to keep their doors open. I urge my colleagues to put the right to sue and need quality, affordable healthcare and to vote for this important legislation.

Mr. PAUL. Mr. Speaker, as an OB–GYN with over 30 years in private practice, I understand better than perhaps any other member of Congress the burden imposed on both medical practitioners and patients by excessive malpractice judgments and the corresponding explosion in malpractice insurance premiums. Malpractice insurance has skyrocketed at a time when insurance companies are offering ever-increasing legal judgments are placing affordable insurance coverage out of reach for doctors in far too many states.

Mr. Speaker, H.R. 4600 also punishes victims of government mandates by limiting the ability of those who have suffered adverse reactions from vaccines to collect damages. Many of those affected by these provisions are seniors, the frail, and infants who are forced to forgo live vaccines or receive vaccines. Oftentimes, parents reluctantly submit to these mandates in order to ensure their children can attend public school. H.R. 4600 rubs salt in the wounds of those parents whose children may have been harmed by government policies forcing children to receive unsafe vaccines.

Rather than further expanding unconstitutional mandates and harming those with a legitimate claim to collect compensation, Congress should work to encourage physicians and patients to resolve questions of liability via private, binding contracts. The root cause of the malpractice crisis (and all of the problems with the health care system) is the shift away from treating the doctor-patient relationship as a contractual one to viewing it as one governed by regulations imposed by insurance company functionaries, politicians, and government bureaucrats, and trial lawyers. There is not reason why questions of the assessment of liability and compensation cannot be determined by a private contractual agreement between physicians and patients.

I am working on legislation to provide tax incentives to individuals who agree to purchase malpractice insurance, which will automatically provide coverage for any injuries sustained in treatment. This will insure that those harmed by spiraling medical errors receive timely and full compensation. My plan spares both patients and doctors the costs of a lengthy, expensive lawsuit. H.R. 4600 respects Congress’ constitutional limitations.

Congress could also help physicians lower insurance rates by passing legislation that removes the antitrust restrictions preventing physicians from forming professional organizations for the purpose of signing contracts with insurance companies and HMOs. These laws give insurance companies and HMOs, who are often protected from excessive malpractice claims by ERISA, the ability to force doctors to sign contracts exposing them to excessive insurance premiums and limiting their exercise of professional judgment. The lack of a level playing field also enables insurance companies to raise premiums at will. In fact, it seems odd that malpractice premiums have skyrocketed at a time when insurance companies are offering ever-increasing legal judgments are placing affordable insurance coverage out of reach for doctors in far too many states.

In conclusion, Mr. Speaker, while I support the efforts of the sponsors of H.R. 4600 to address the crisis in health care caused by excessive malpractice litigation and insurance premiums, I cannot support this bill. H.R. 4600 exceeds Congress’ constitutional limitations and denies full compensation to those harmed by the unintentional effects of federal vaccine mandates. Instead of furthering unconstitutional authority, my colleagues should focus on addressing the root causes of the malpractice crisis by supporting efforts to restore the primacy of contract to the doctor-patient relationships.
Mr. Speaker, we need real common-sense reforms and we need them today. The HEALTH Act delivers that relief and I ask Members to support it.

Mr. KOLLENBERG. Mr. Speaker, we must act now to address the malpractice insurance crisis facing our nation. Medical providers across the country are turning away new patients or simply closing their doors because they can no longer afford the skyrocketing malpractice insurance premiums. This is particularly true in high-risk specialties such as obstetrics/gynecology and emergency medicine.

An American Hospital Association survey released this June found that more than 1,300 health care institutions have been affected by increasing malpractice costs. It further reported that 20 percent of the association’s 5,000 member hospitals and other health care organizations had cut back on services and 6 percent had eliminated some units.

And the AHA today designated 19 states as “Medical Liability Crisis State.” Fortunately, my home state of Michigan is not on that list, but if things continue as they are, all of our home states will be on that list.

This is unacceptable. Patients do not have time to wait for care or travel long distances to find a provider when they are in emergency situations. We cannot allow people to die because emergency rooms cannot afford to ensure the necessary specialists. Women should also be able to receive prenatal care without worrying that their doctors might not be able to continue providing care throughout their entire pregnancy.

Moreover, fear of litigation leads many doctors to prescribe medicines and order tests that they feel are unnecessary. Studies estimate that this defensive medicine costs billions of dollars a year, enough to provide medical care to millions of uninsured Americans.

I believe we must work to eliminate medical errors and patients should be able to seek redress when medical mistakes are made but our health care system should serve patients, not lawyers. I have strong concerns with any endless, frivolous, and costly personal injury-like litigation. Today’s system is skewed toward erecting barriers to justice.

The causes of the liability crisis are complex but legislation we are considering today is a significant step in ensuring health care providers will be able to continue serving patients. The HEALTH Act would help stabilize liability premiums as well as help patients get awards and settlements faster and ensure that patients, not lawyers, receive the majority of the awards.

This is common-sense legislation modeled after California’s twenty-five-year-old, highly successful litigation reforms. I encourage my colleagues to support this bill because Americans do not have the time to wait for assurance that health care practitioners can maintain their practices and continue to serve patients.

Mr. BLUMENTAQUI. Mr. Speaker, it is clear that a crisis exists relating to the costs of medical malpractice liability insurance premiums. This bill is no a solution, and I will not vote for it. The problem deserves an effective solution based on a real causal evaluation, which this bill lacks. Even insurers and their lobbyists reject the notion that tort reform would achieve any specific premium reduction.

I am particularly concerned that the model for this bill, California’s Medical Injury Compensation Reform Act (MICRA), does not appear to have succeeded at all in the battle against high malpractice insurance premiums. MICRA included a $250,000 cap on non-economic damages as well as arbitration and attorney fee provisions, yet doctors still pay premiums that are higher than the national average.

Furthermore, the caps on damages in this bill are arbitrary, and based on a scale established in 1975. In Oregon, the Supreme Court has repeatedly ruled that even looser caps are a clear violation of state law, and Oregon voters have resisted efforts to change this. This bill would overturn their decisions, as well as patients’ rights laws in 11 other states.

Since Congress is very unlikely to enact this tort reform, we ought to look into the effect that poor investments, the legislative framework, and other insurance industry-side elements might have in this crisis. Until we achieve a higher level of transparency in the accounting practices of insurers who hold the reins of our health care system, we will not be able to truly provide the relief that the medical system needs. I am committed to working with all parties to solve the malpractice premium crisis.

Ms. GRANGER. Mr. Speaker, today in my district, doctors are being forced out of practice because of the skyrocketing cost of medical malpractice insurance. In fact, a very close friend of mine who has a practicing in Fort Worth, doctor Susan Blue, has recently been told that her insurance carrier will terminate her policy on December first of this year. Since 1990, doctor Blue has had nine malpractice claims filed against her. However, most of the claims were frivolous and she was never able to truly provide the relief that the medical system needs. I am committed to working with all parties to solve the malpractice premium crisis.

Mr. EHRLICH. Mr. Speaker, I wish I could say that doctor Blue’s story is an isolated incident. But we all know it’s not. Every Member of Congress here today has a doctor Blue in their district. Every Member of Congress has experienced doctors that are, right now, deciding whether or not to retire because of the high cost of malpractice insurance. As a nation, we cannot afford to lose one more doctor.

With one less doctor, patients wait longer, diseases progress further, and health insurance costs continue to spin out of control. Let’s hold on to the skilled community physicians and ensure patients have the doctor choice that they deserve and desire.

Today I will be voting for doctors like Susan Blue, and I will support common sense malpractice reform. I will be supporting H.R. 4600. Mr. EHRLICH. Mr. Speaker, I am pleased that the House today is debating public policy options to help contain the growth of medical care costs in our nation. Patients across the country continue to see increases in their insurance premiums and health costs, and it is critical for Congress to find solutions to make health care more affordable for physicians to practice and patients to access.

Proponents of H.R. 4600, The Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act, argue that this bill, which would create national tort reform, would contain or lower medical malpractice insurance costs for physicians and by extension lower health costs for consumers. I understand the many arguments in favor of this legislation, including the need to limit excessive medical insurance costs which physicians face in many states and often pass on to their patients. Also, like my fellow House members, I too feel a need to help my constituents back home.

I agree that our society has become excessively litigious and that reasonable tort reform can be enacted to reduce medical malpractice insurance premiums, keep doctors in areas of medical need, and help patients. Supporters of this legislation argue that many states are incapable of enacting tort reform because of the restrictions of their state constitutions or other barriers. Supporters also argue that a federal reform is reasonable because this bill allows for state limits on damages to supersede the federal caps. I understand that the majority of my party, our leadership, and the President support this bill.

I believe, however, the proper venue for this debate should not be the U.S. Congress but rather the many state legislatures whose constitutions forbid tort reform or where there is no political will to limit damages from medical malpractice. This is a state matter—not a federal one.

States can and do enact reasonable, successful tort reform. In Maryland, for example, our tort reform law has generally worked well. As a state delegate who served on the Judiciary Committee in Annapolis and as a Member of Congress, I strongly support Maryland’s tort law, which differs significantly from H.R. 4600 on a number of important matters, including caps on noneconomic damages, attorneys’ fees caps, statutes of limitation on claims, joint and several liability. One of the notable features of the Maryland law is the cap on noneconomic damages at $520,000 this year, with a built-in adjuster for inflation of $15,000 annually. I believe this cap allows for working-class victims of medical malpractice to reap reasonable damages. Creating an inflation adjuster allows for the removal of politics from tort laws which would otherwise call for frequent political intervention to update damage caps or risk the erosion of their value to compensated victims.

Mr. Speaker, I opposed similar caps on damages during the Patients Bill of Rights debate on the floor of the House in 2001 because I have come to the conclusion that states can regulate tort reform best—if they choose to do so. I understand that many states have experienced problems with increasing costs of medical liability insurance for physicians. I respectfully believe, however, that the proper area for that debate is not in...
Washington, DC but in state capitals where tort systems clearly need to be addressed and regulated as they have been in the past. Accordingly, I oppose H.R. 4600.

Mr. HAYES. Mr. Speaker, I rise today in strong support of H.R. 4600, the Health Act. Skyrocketing insurance premiums are devastating our nation’s health care delivery system. In April I visited hospitals in the 8th District of North Carolina to talk about workforce issues such as the nursing shortage. At every stop, the number one concern of these talented health professionals was resoundingly the dramatically escalating cost of liability insurance.

Last year, NorthEast Medical in Concord, North Carolina paid approximately $600,000 for professional liability/general liability insurance for the hospital. This year they will pay approximately $1.7–1.9 million for the same coverage. They have one of the best loss rates in North Carolina. Other hospitals that aren’t so fortunate are paying even more.

Scotland Memorial, a rural hospital with only 124 acute beds, 50 bed nursing home, and retirement home, has seen an increase of over $545,000 this year with most of their insurance quotes over $1 million. Many of the potential insurers left in the industry are not willing to cover nursing homes or only at an even greater premium.

FirstHealth Richmond, another rural hospital, paid $386,810 in 2001 for liability premiums. But this past year, they paid over $2 million! This hospital submitted 14 requests for bids, and only one company was even able to offer a quote. Lack of competitive insurers means even higher costs for our hospitals. However, the problem is not isolated to hospitals.

Many obstetricians/gynecologists have stopped delivering babies. Physicians are retiring or moving because they no longer can afford to serve their communities or are simply unable to even purchase insurance. Annual increases in malpractice insurance for doctors of 30–70 percent are common today.

Just this month, three sub-specialist groups have informed Union Regional Medical Center in Union County, North Carolina that they will have to discontinue serving the hospital’s patients because of huge increases in liability coverage, or threats from their carrier of such.

Smaller community hospitals, like most of those in my district need these sub-specialists from our larger cities such as Charlotte and Fayetteville. Their availability adds to the quality of health services available in our communities.

In 1994, the average medical malpractice jury award was $1.14 million. In 2000, just 6 short years, the average award rose to $3.4 million.

We must reign in run-away jury verdicts and the greed of trial lawyers who search for deep pockets. Taxpayers and seniors are the leading victims of a systemic trial lawyer-driven litigation explosion that siphons federal dollars out of the nation’s healthcare system, threatens seniors’ access to quality health care, and costs taxpayers billions of dollars. The system is broken, and we need to fix it.

Without federal legislation, the exodus of providers from the practice of medicine will continue, and patients will find it increasingly difficult to obtain needed health care.

This crisis is a threat for all Americans. We must safeguard patients’ access to care through common sense reforms. Vote “yes” on H.R. 4600.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 4600, legislation that would undermine the right of patients and their families to seek appropriate compensation and justice. It would allow a defendant to collect on a verdict against, or a loved one, and be harmed or even killed by an incompetent health care provider.

At best, this bill is a wrong-headed approach to the problem of rising malpractice health insurance costs. At worst, it is a bill designed by the hard-pressed and other health care providers from being held accountable for their actions. Under any scenario, the bill is harmful to consumers and should be defeated.

The Republican Leadership has once again brought us a bill that favors their special interests at the expense of quality health care. Doctors, hospitals, HMOs, health insurance companies, nursing homes, and other health care providers would all love to see their liability risk reduced. This bill meets that need. Unfortunately, it does so solely on the backs of America’s patients.

Supporters of this bill would have you believe that medical malpractice lawsuits are driving health care costs through the roof. In fact, for every $100 spent on medical care in 2000, only 56 cents could be attributed to medical malpractice costs—that’s one half of one percent. These limits are spreading false hope that reducing the cost of medical malpractice would reduce the cost of health care in our country by any measurable amount. It won’t.

What supporters of this bill do not want you to understand is how bad this bill would be for consumers. The provisions of this bill would prohibit juries and courts from providing awards they believe are appropriate relative to the harm done.

H.R. 4600 caps non-economic damages. By setting an arbitrary cap on this portion of an award, the table is tilted against seniors, women, children, and people with disabilities. Medical malpractice awards break down into several categories. Economic damages are awarded based on how one’s future income is impacted by the harm caused by medical malpractice. There are no caps on this part of the award. But by capping non-economic damages, this bill would result in someone, without a future income is impacted by the harm caused by medical malpractice would reduce the cost of health care in our country by any measurable amount.

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Doctors and other health care providers have been forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine, neurology, and obstetrics and gynecology. Low-income neighborhoods and rural areas are being particularly hard hit.

H.R. 4600 is, modeled after California’s quarter-century old and highly successful health care litigation reforms (MICRA). MICRA was signed into law by Governor Jerry Brown, a medical doctor, empowered by medical malpractice. There are no caps on this part of the award. But by capping non-economic damages, this bill would result in someone, without a future income is impacted by the harm caused by medical malpractice would reduce the cost of health care in our country by any measurable amount.

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Economists have concluded that direct medical care litigation reforms—including caps on pain and suffering and economic damages awards generally reduce the growth of malpractice claims rates and insurance premiums, and reduce other stresses on doctors that may impair the quality of medical care.

By incorporating MICRA’s time-tested reforms at the California level, the HEALTH Act will make medical malpractice insurance affordable again, encourage health care practitioners to maintain their practices, and reduce health care costs for patients. MICRA remains the only proven legislative solution to the current crisis, yet many state courts in states otherwise have nullified legislative reforms. Congressional action is required.

The current, unregulated medical tort system can force doctors to practice defensive
medicine. It also discourages improvements in the delivery of medical care by deterring doctors from freely discussing errors or potential errors due to a fear of litigation. The HEALTH Act will also save billions of dollars a year in taxpayer dollars by significantly reducing the incidence of wasteful and expensive defensive medicine in federally-funded programs.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in support of H.R. 4600 which safeguards patients’ access to medical care by implementing common sense reforms.

High insurance rates have left doctors with the increased costs, but those who cannot will be either forced to assume significant personal liability, leave high risk specialities, or leave the profession altogether. But, this legislation doesn’t guarantee any reduction or abatement in increases that doctors are facing for their malpractice premiums. Instead, it focuses on drastic reforms of the judicial system that extend beyond malpractice, hurt injured consumers’ access to remedies, and provide a windfall to insurance companies. What has caused the increase in malpractice premiums is not easily identified. Many factors completely unrelated to jury verdicts and the civil justice system affect insurance rates: pricing of malpractice insurance; practices of administering high risk insurance policies; and expenses while planning for downturns; investment choices. Yet, this legislation addresses none of these issues. In fact, neither of the two Committees of jurisdiction ever explored these issues and their relation to malpractice premiums. Instead, we are voting today on a bill that won’t do anything to lower doctors’ premiums but will disproportionately hurt women, low-income families, and seniors.

The legislation severely restricts non-economic damage awards. Yet, evidence shows very real problem for doctors and patients and their families. In sum, instead of help for doctors with their medical malpractice premiums and fair compensation for injured patients, this bill puts more money in the pockets of insurance companies, and combines broad liability protections for industries with restrictions on patients who are harmed. The rising cost of malpractice insurance is a real problem requiring careful, balanced, and targeted legislation. Sadly, efforts to address this problem have become the vehicle for all manner of anti-patient provisions. I urge my colleagues to reject H.R. 4600.

Mr. MOORE. Mr. Speaker, I rise in opposition to H.R. 4600. Like my colleagues, I am concerned about medical malpractice premiums and their effect on the availability of physicians, especially obstetricians and specialty physicians to practice in certain states. I am not at this time convinced, however, that H.R. 4600 is the complete answer to the medical malpractice insurance premium problem. The concentration of excessively high premiums in certain states shows that this is a regional, not national problem.

In my Congressional district, one hospital recently closed its trauma center and another canceled plans to build a center city clinic to serve the poor. A third hospital is about to close its maternity ward and fourth hospital nearby is on the verge of cutting back on emergency room services. Why? Because they can’t find medical malpractice insurance.

Insurance companies literally can’t charge enough for their policies to stay in business, so they’re leaving the Commonwealth. And that means doctors and hospitals can’t get insurance. Doctors are leaving the profession or leaving the state.

One doctor in my district says there were thirty companies offering malpractice policies when he started his practice 30 years ago. Now there is only one, and he’s not sure they’ll give him a policy.

This is a crisis, Mr. Speaker. And Pennsylvania is not the only state in the Union that’s in trouble.

It’s time for Congress to act. And we need to act now.

I urge my colleagues to pass this bill. Mr. DINGELL. Mr. Speaker, like many of my colleagues here today, I am concerned about the rising cost of malpractice insurance. It is a very real problem for doctors and patients and their families. But, this legislation doesn’t solve it. Instead, it focuses on drastic reforms of the judicial system that extend beyond malpractice, hurt injured consumers’ access to remedies, and provide a windfall to insurance companies. What has caused the increase in malpractice premiums is not easily identified. Many factors completely unrelated to jury verdicts and the civil justice system affect insurance rates: pricing of malpractice insurance; practices of administering high risk insurance policies; and expenses while planning for downturns; investment choices. Yet, this legislation addresses none of these issues. In fact, neither of the two Committees of jurisdiction ever explored these issues and their relation to malpractice premiums. Instead, we are voting today on a bill that won’t do anything to lower doctors’ premiums but will disproportionately hurt women, low-income families, and seniors.

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I urge my colleagues to pass this bill.
premiums must address all of the factors that contribute to premium cost. Earlier this year, I sent a letter with several of my colleagues asking that the General Accounting Office conduct a study on the effect of market conditions and insurance company practices on medical malpractice insurance premiums. I have also introduced into the RECORD a copy of that letter as well as a July 3, 2002, article from the Wall Street Journal.

I expect to have preliminary results from the GAO in December. Once we know the full scope of the problem, I hope that we can work together to find a comprehensive solution to this problem.

WASHINGTON, DC.

July 2, 2002

Hon. DAVID M. WALKER,

DEAR MR. WALKER: We are writing to request your assistance in evaluating the extent to which current market conditions and insurance company practices are contributing to an increase in medical malpractice premiums.

It has been reported that insurance companies have been raising the medical malpractice premiums which doctors must pay in certain regions of the country. Congress has begun to investigate this issue and many in Congress have already proposed legislation. However, thus far the focus of debate in Washington has been limited. As Congress attempts to balance the rights of patients with the interests of doctors and insurers, we believe that a thorough analysis of insurance industry practices is necessary. Medical malpractice is an important issue that must be examined thoroughly and deliberately from all perspectives.

In this regard, we ask that you examine the financial statements and information submitted to regulators by insurance companies that offer medical malpractice insurance, as well as any other information maintained by regulators that may be relevant to this issue. In particular, we would like to know how reductions in the investment income of insurers may be adversely affecting the financial condition of these companies, thus increasing physician premiums to compensate for any declines. To the extent feasible, you should also analyze the underwriting and pricing of medical malpractice insurance to determine whether premiums have historically experienced similar increases and also determine whether current market conditions are the cause.

We would also like you to examine the competitiveness of markets, particularly in those areas experiencing the sharpest premium increases. For example, has the lack of competition in the medical malpractice insurance market adversely affected physician premiums? In addition, we are interested in having a review of malpractice settlements and judgments compared to premiums earned for medical malpractice lines of insurance. In particular, we would like to know how incurred but not yet reported holdings have affected the reserve practices of medical malpractice insurers.

As your examination proceeds, please provide us with a status report no later than September 3, 2002. We thank you for your assistance and look forward to your ultimate findings on this important issue for patients and doctors.

Sincerely,

John Conyers, Jr., John J. LaFalce, Joseph M. Hoefel, Nick J. Rahall II, Alan B. Mollohan, John D. Dingell, Max Sandlin, Ronnie Shows, Dennis Moore, Marion Berry.

[From the Wall Street Journal, June 24, 2002]

INSURERS’ PRICE WARS CONTRIBUTED TO DOCTORS FACING SOARING COSTS

(By Rachel Zimmerman and Christopher Oster)

As medical-malpractice premiums skyrocket in areas where malpractice rates across the country, obstetricians and doctors in other risky specialties, such as neurosurgery, are moving, quitting or retiring. Insurers and doctors say they are facing a system on rising jury awards in liability lawsuits.

“The real sickness is people sue at the drop of a hat, judgments are going up and up and up,” said Gary Bagin, chief executive of Sepie Holdings Inc., a leading malpractice insurer in California.

What’s more, the litigation statistics most insurers trumpet are incomplete. The statistics come from Jury Verdict Research, a Horsham, Pa., information service, which reports that since 1994, jury awards for medical malpractice cases in the last year alone were $2.05 billion. St. Paul, a mid-sized national carrier, said it had $9,800 for the first year, although the rate rises significantly after that. Premia in Maine are relatively low because of the volume of claims filed in a given year.
reform and the industry's rate increases turned malpractice insurance into a very lucrative specialty.

A standard industry accounting device used by St. Paul and others is a smaller scale, by its rivals, made the field even more attractive. Realizing that it had set aside too much money for malpractice claims, St. Paul and others in the late 1990s from their bond and stock portfolios would continue, industry officials say. When the bull market stalled in 2000, investment gains that had covered inadequate premium rates disappeared.

Some bedpan mutuals went home. St. Paul stopped writing coverage in any state other than California and lost money, and its insurance company restructured, says the company's Mr. Zuk.

New Jersey's Medical Inter-Insurance Exchange, which operates mainly in Georgia, fanned out across the country. Some publically traded insurers also jumped into the business. With St. Paul seeming to offer a model for big, quick profits, "no one wanted to sit still in their own backyard," says Scpae's Mr. Zuk. St. Paul's competition has driven down profits. In the late 1990s, the size of payouts for medical malpractice has increased, and premiums in many states have shot up as much as 200 percent in one year. As a result insurers offer less-expensive policies to doctors who don't have to carry that with him any more. The industry was at its bottom line, according to industry officials.

In the 1990s, some bedpan mutuals began competing for business beyond their original territories. New York's Medical Inter-Insurance Exchange, California's Southern California Physicians Insurance Exchange (now known as Scpae Holdings), and Pennsylvania's Hospital Insurance Co., or Phico, fanned out across the country. Some publicly traded insurers also jumped into the business with St. Paul seeming to offer a model for big, quick profits, "no one wanted to sit still in their own backyard," says Scpae's Mr. Zuk. St. Paul's competition has driven down profits. In the late 1990s, the size of payouts for medical malpractice has increased, and premiums in many states have shot up as much as 200 percent in one year. As a result insurers offer less-expensive policies to doctors who don't have to carry that with him any more. The industry was at its bottom line, according to industry officials.

Mr. BERMAN, Mr. Speaker, I've heard many arguments against H.R. 4600, but there is one that I've not heard mentioned today. I suspect that the drafters did not intend the bill to have this effect, but as drafted the HEALTH Act endangers the effectiveness of the most successful anti-fraud tool that the government has at its disposal—the False Claims Act.

In 1986, Congress passed and President Reagan signed legislation strengthening the False Claims Act, a law originally signed by President Lincoln in 1863. The amendments passed in 1986 have helped the government to recover close to $9 billion that would otherwise have been lost to health care fraud and abuse.

The definitions of "health care law suit" and "health care liability action" in this bill are very broad. Broad enough to encompass fraud cases brought under the False Claims Act. If a False Claims Act case was determined to fall under the HEALTH Act, it would be devastating to the effectiveness of this anti-fraud tool. Under False Claims the government can recover not just the 10-20 percent of the government to recover close to $9 billion that would otherwise have been lost to health care fraud and abuse.

Let's use as an example the 1996 case against Laboratory Corporation of America, a fraud case based upon false claims for medically unnecessary "add-on" tests submitted to Medicare, Medicaid, and CHAMPUS. The government recovery in this case was $182 million. Many of the cases that have involved medical malpractice claims are not small cases. The treble damage award plus interest amounts to $500 to $1000 million.

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During the debate on the 1996聊城 case against Scpae Holdings, a Seattle consultancy serving insurance companies.

ALLEGED FRAUD

In at least one case, aggressive pricing allegedly crossed the line into fraud. Pennsylvania regulators last year filed a civil suit in state court in Harrisburg against certain executives and board members of Phico. The state's preponderance of evidence defendants misled the company's Mr. Zuk. St. Paul's competition has driven down profits. In the late 1990s, the size of payouts for medical malpractice has increased, and premiums in many states have shot up as much as 200 percent in one year. As a result insurers offer less-expensive policies to doctors who don't have to carry that with him any more. The industry was at its bottom line, according to industry officials.

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America's health care system. Liability insurers are either leaving the market or raising rates to astronomically high levels. This has led physicians, hospitals and other health care providers to severely limit their practices or to leave the practice of medicine all together. Women, low-income neighborhoods and rural areas are the first areas to suffer the worst hit.

Fearing bankruptcy or the possibility of endless litigation, some doctors have turned to “defensive medicine”—which consists of wasteful prescription of medically unnecessary medicine and the practice of unnecessary tests in the intent of limiting liability exposures. These “defensive medicine” practices ultimately cost taxpayers billions of dollars. In addition, fearing litigation, some doctors may hesitate to discuss a potential misdiagnosis or medical error, thereby compounding the harm done to patients. A recent survey released by the Department of Health and Human Services revealed that over 76 percent of physicians are concerned that malpractice litigation has hurt their ability to provide quality care to patients.

This bill safeguards patient’s access to care by limiting the number of years a plaintiff has to file a healthcare liability action. This ensures that claims are brought while evidence and witnesses are available. The legislation allocates damages fairly in proportion to a party’s degree of fault, thus allowing patients to recover economic damages such as future medical expenses and loss of future earnings, while establishing a cap of $250,000 on non-economic damages, such as pain and suffering. The bill also places reasonable limits on punitive damages.

American health care is still the envy of the world, but unless we act now to curb rapidly rising health care costs, we threaten the future availability of high quality affordable health care. One way to cut costs and improve quality is by curtling excessive lawsuits. This bill is a big step in the right direction to improving patient safety and doctor accessibility.

Mr. SMITH of Texas. Mr. Speaker, the cost of malpractice insurance has steadily risen, which has caused many insurers to drop coverage. Doctors have been forced to abandon patients, particularly in high-risk specialties such as emergency medicine and obstetrics and gynecology.

H.R. 4600, the HEALTH Act, will cap non-economic damages at $250,000, and limit the contingency fees lawyers can charge. This will reduce the number of medical malpractice claims and make medical malpractice insurance affordable again. Patients will receive better and less expensive health care.

By improving the medical malpractice system, the HEALTH Act will enhance the quality of care for all patients.

I urge my colleagues to support this legislation.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of H.R. 4600, which will improve health care quality and help ensure the availability of health care services and coverage.

The failure of the medical liability system is compromising patient access to care. Liability insurers are leaving the market or raising rates to astronomical levels. In turn, many hospitals, physicians and other health care providers are severely limiting their practices or are simply unable to afford to practice medicine. Physicians in Texas as well as Florida, Mississippi, Nevada, New York, Ohio, Pennsylvania, Washington, Virginia and other states are already in crisis.

Skyrocketing medical malpractice insurance premiums are debilitating the nation’s health care delivery system across the country. Physicians in Texas have experienced a 51 percent increase in malpractice claims between 1990 and 2000, and according to the Texas Medical Association, increases in physician malpractice insurance rates in 2002 ranged from 30 percent to 200 percent. Increases in medical malpractice insurance rates have increased the wait time for screening mammograms from two to three months. The current system is forcing our doctors to quit, encouraging them to seek other employment and jeopardizing the health care of our women.

In rural Pennsylvania this issue hits home. Many doctors are relocating to big cities where they can be part of a larger practice, specifically because they can’t afford the insurance premiums on their own. In rural areas we have to travel farther and farther for quality health care—this dramatically affects our quality of life. Who wants to move to an area where they can’t get health care?

It becomes more worrisome when it is an emergency. It is common knowledge that the sooner you get to the doctor the better chance you have in surviving a serious medical emergency. Every country has critical access points where patients have to travel to the patient, diagnose the problem and then transport them to the nearest facility that can treat them. The further they have to travel the less likely they will survive.

Mr. Speaker, by passing H.R. 4600, we will take significant steps toward stabilizing the medical liability system by both safeguarding patients’ access to care while helping to address skyrocketing health care costs. Congress needs to work for the betterment of the whole nation and pass this common-sense well-tested package of reforms.

Mr. CROWLEY. Mr. Speaker, I rise in opposition to H.R. 4600. This bill’s proponents say the legislation helps curb the costs of healthcare and helps doctors stay in business by lowering their insurance rates. However, I believe they are wrong. I would like to illustrate why they are wrong and why I will oppose this legislation.

First, the $250,000 cap on non-economic damages will impede the right of patients and victims of gross negligence. Under this legislation, victims would not be allowed to sue for pain and suffering. That is wrong. Consider the cases of the patient who has the wrong leg amputated or who finds surgeon’s initials carved into her skin or the recent example in Massachusetts where a surgeon left a sponge in the middle of surgery to go cash a check at the bank. Who would dare look these victims in the eye and say they should not be allowed to sue for anything beyond what this cap allows. Under current law, the onus is on the victims to prove they are deserving of a particular award. If they succeed in making their case, then they deserve to be awarded the appropriate amount by a jury of their peers in accordance with the law. This legislation leaves victims isolated without assistance and without the tools to protect themselves and their families.

Second, the bill takes power away from jurors and judges. Our constitution provides for trial by jury to ensure fair trials for all. Now the
Republicy majoriy believes that the Constitution is wrong and people are not trustworthy; that power should be in the hands of the insurance companies not the American public. This bill is a one-size-fits-all approach to ruling on legislation. It says that even if jurors, who have conscientiously listened to every fact presented, want to award a plaintiff an amount beyond the cap, they are unable to do so. This bill says that judges, who are trained to listen to the specifics of a case and to understand the specifics of the law, cannot award damages as they see fit. This bill ties the hands of those who are expected to know the most about the law and about individual cases.

Third, the bill, which was drafted under the auspices of trying to lower malpractice insurance costs, offers no guarantees that medical malpractice costs will fall. Proponents claim the bill’s intent is to reduce malpractice insurance rates, yet malpractice insurers can easily choose to price gauge. A June 24, 2002 Wall Street Journal article discusses the direct impact of insurers’ “pricing and accounting practices” on increased malpractice rates. If we want the hands of those who are expected to know the most about the law and about individual cases.

Finally, this bill places caps on suits due to negligent doctors who shouldn’t be practicing, dangerous HMOs that should be shut down, and faulty pharmaceuticals and faulty devices that should be off the market. Unfortunately there are bad pharmaceuticals and bad devices in this country. Consider the Dalcon Shield, the inter-uterine device that used to be on the market. This device caused many women to develop serious uterine infections or worse, and the company knew it was faulty. Their negligence was punished by crushing lawsuits that caused the corporation to go bankrupt—and they should have gone bankrupt because they were killing women. This bill would allow manufacturers of devices like the Dalcon Shield to pay off small awards by their insurance company to their victims and continue to kill.

Additionally, this bill exempts all HMOs from litigation for denials of care. So many of my Congressional colleagues talk about wanting to protect Americans against HMOs, yet here we are in a bill that would do precisely the opposite. This bill is protection for HMOs. This bill saves HMOs from paying victims whatever amount the judicial systems finds is just. Patients need and deserve stronger protections against their HMOs than this bill permits.

This bill simply takes power away from judges, jurors, and victims while guaranteeing no relief for hospitals and physicians. My constituents have been waiting for Congress to pass a serious Patients Bill of Rights, protect patients and their families, and lower medical costs. This bill will accomplish none of these goals.

Therefore, I will be opposing this vote and urge all Members who care about their constituents and about health care costs to oppose this bill as well.

The SPEAKER pro tempore. Pursuant to H. Res. 553, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman from Michigan, Mr. CONYERS, Mr. Speaker, I am. The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk reads as follows:

Mr. CONYERS moves to recommit the bill H.R. 4690 to the Committees on the Judiciary and the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

In section 11—

(1) in the first sentence of subsection (a), strike “SPEAKER pro tempore” and insert “sections (b), (c), and (d)”; and

(2) add at the end the following new subsection:

(d) PATIENTS’ BILL OF RIGHTS.—Notwithstanding any other provision of this Act, if a State has in effect a law that provides for the liability of health maintenance organizations (as defined in section 2791(b)(3) of the Public Health Service Act (42 U.S.C. 300gg-91(b)(3))) with respect to patients, or sets forth circumstances under which actions may be brought in respect to such liability, this Act does not preempt or supersede such law or in any way affect such liability, circumstances, or actions.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there further objection to the request of the gentleman from Michigan?

Mr. Speaker, I am. Mr. Speaker, I ask that the gentleman from New Jersey (Mr. ANDREWS) join me in the motion to recommit, and I offer this motion on behalf of myself and him.

As currently drafted, this bill guts HMO reform laws that States have already passed because it creates broad new caps on damages when HMOs deny coverage to patients, and so what we do is to add a safe harbor provision to specify that these State patient’s bills of rights laws are not preempted by this bill. Nothing more.

It goes without saying that these limits are far less friendly to consumers injured by HMOs than the patient protection laws already enacted by the States, and I would love to refer to the former Governor of Texas George W. Bush, who had a similar view in mind. They enacted an HMO law in Texas, and that law, still on the books, has a higher cap on punitive damages than this bill and no caps on noneconomic damages for suits against HMOs.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding.

There is a serious disagreement about the underlying bill and whether or not it poses the right solution to the malpractice crisis. Aside from that, there should be no dispute over what this bill should and should not do with respect to State laws that many of our States have passed because of the harm caused by the managed care industry. This bill should have no effect on those underlying State laws.

If this motion to recommit is not adopted, I believe the best analysis is that this bill would have the effect of repealing or substantially neutralizing and weakening those State law protections. The purpose of the motion to recommit is to make it explicit in the statute that this bill, if enacted into law, would not preempt State patient protections laws.

So, for example, there are States that have laws that say that if a person went to their primary care provider and she suggested that a person needed a test and the managed care company refused to pay for the tests regarded the possible malignancy and the managed care company refused to pay for the tests regarding the possible malignancy and they developed a malignancy, developed cancer, got sick as a result of it, under these State patient protection laws, there are certain remedies that that patient and her family would now have, the ability to get a review before the decision was made by an external objective body and the ability, if the decision were not reversed, the ability to recover damages from the arbitrary medical malpractice by the managed care company.

This has been a principle embraced by Republicans and Democrats in State legislatures around the country. In fact, as the gentleman from Michigan (Mr. CONYERS) mentioned, the President of the United States embraced such a bill when he was chief executive of the State of Texas.

The good work that the Texas legislature has done, and other legislatures have done around the country, would be imperiled and put at risk if this motion to recommit is not adopted.

Mr. Speaker, I disagree with the underlying bill; but even those who agree with the underlying bill, I believe, did not set out with the intention of repealing State patient protection statutes. I know that the majority has added a sense of Congress provision to the underlying bill that says it is not really our intention.

Frankly, there is a better way for us to express our intention than simply saying that we oppose everything the House of Representatives. It is to write a statute or to write a provision in the statute that says that State patient protection provisions are not repealed as a result of the adoption of this bill.

Mr. Speaker, I think Members should support the motion to recommit whether they are for the underlying bill, or whether they are joining those of us who oppose the underlying bill. If
Members respect and support the right of their State legislature to enact State laws that would protect Members’ constituents against abuses by managed care companies and State laws. Members should vote for the motion to recommit. I would urge Republicans and Democrats to vote for the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, this is a very craftily drafted motion. The effect of its adoption will be somewhere between 25 and 30 percent. Despite all of the railings against it, the fact of the matter is when we limit liability, as California has seen and the statistics are crystal clear there, when we limit non-economic damages, the rates go down.

The rates go down because there is competition in the system, and the insurance companies will have to lower their premiums in order to compete with others in the same market. So the protections to patients will go away the protections for all of the physicians who work for HMOs, and I believe for the hospitals that contract with HMOs. It is very much a gutting amendment.

The fact of the matter is that we in this House have to decide which side we are on here. We are either on the side of providing adequate care to our patients, to our constituents, making sure that our physicians can stay in practice, stop retiring early, keeping the trauma centers open; or we are on the side of doing nothing, which is about what this bill would do with a motion to recommit with instructions.

The Congressional Budget Office has said that this bill will reduce premiums by 25-30 percent. Despite all of the railings against it, the fact of the matter is that if we lose this, it purports to be a small carve-out for the Patient Bill of Rights as they apply to HMOs, the fact of the matter is it will insulate and take away the protections for all of the physicians who work for HMOs, and I believe for the hospitals that contract with HMOs. It is a very much a gutting amendment.

Mr. GREENWOOD. Mr. Speaker, I yield back the balance of my time.
CONGRESSIONAL RECORD—HOUSE

September 26, 2002

H6743

Mr. ROSENTHAL. Mr. Speaker, pursuant to House Resolution 552, I call up the conference report on the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes. The Clerk reads the title of the bill. The SPEAKER pro tempore (Mr. GILLUM). Pursuant to the rule, the conference report is considered as having been read. For conference report and statement, see proceedings of the House of September 25, 2002, at page H6986.

Mr. SENENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the conference report on H.R. 2215 currently under consideration.

The SPEAKER pro tempore is unanimous consent to have the conference report transmitted to the Senate.

Mr. SENENSENBRENNER. Mr. Speaker, I yield myself such time as I may require, I yield myself such time as I may require.
September 26, 2002

Mr. Speaker, over the last two decades, there have been several unsuccessful attempts by the Committees on the Judiciary of both Houses of Congress to authorize the Department of Justice. If enacted, H.R. 2215 represents the first such authorization of the Department in nearly a quarter century. It reflects the broad bipartisan interest in the bipartisan approach to the operation of the Department, and was signed by all of those appointed to the Conference. While some might argue that congressional authorization of federal departments within its jurisdiction is a mere formality, the authorization of executive agencies fulfills Congress' constitutional obligation to maintain an active and continuing role in organizing the priorities and overseeing the operation of the executive branch. This process also ensures that the authorizing committees' institutional knowledge about the federal agencies they oversee can be imparted in the course of regulation reauthorization.

The Department of Justice is one of the most important agencies in the Federal Government and the world's premier law enforcement organization. With an annual budget exceeding $20 billion dollars and a workforce of over 100,000 employees, the Department of Justice is an institution whose mission and values reflect the American people's staunch commitment to fairness and justice.

The Department of Justice has only increased since the tragic events of September 11th, 2001. Last year, I was pleased to introduce and lead congressional passage of the PATRIOT Act, which has strengthened America's security by providing law enforcement with a range of tools to fight and win the war against terrorism.

As Chairman of the Judiciary Committee, I have continued to help provide the Department with the legislative resources to carry out its crucial mandate. At the same time, I have worked to ensure that the Department's structure, management, and priorities are tailored to best promote the purposes for which it was established.

The 21st Century Department of Justice Appropriations Authorization Act advances this important goal. The title of this measure reflects its broad and ambitious sweep: to focus the priorities of the Department to tackle the challenges of the 21st century. At the same time, its title alone does not fully capture the unique and universal Federal crimes contained in its text. Many of these initiatives were reported by the House Judiciary Committee and passed the House of Representatives, only to be diverted from the President's desk by the delay and inaction of the other body.

H.R. 2215 fully authorizes the appropriations requested by the President for fiscal years 2002 and 2003. It strengthens oversight of the Department of Justice by bolstering the authority of the Department's Inspector General. It also mandates that the Attorney General's office be dedicated to the oversight of the FBI. It also requires the Inspector General to submit an FBI oversight plan to Congress within 30 days of enactment. It also directs the Department to submit a report detailing the operation of the Office of Justice programs, and requires the submission of information concerning litigation activities at the Department, and protects civil liberties by requiring the submission of a report on the Department's use of the electronic surveillance system known as "Predator Carnivore."

H.R. 2215 strengthens the statutory authority of the Attorney General to conduct his official responsibilities, enhances the administration of justice by incorporating long-needed judicial improvements and strengthens judicial disciplinary procedures. It also creates additional judgeships to address the chronic overburdening of America's federal courts, particularly in border states such as Texas, California, and New Mexico, as well as Florida, Nevada, and Alabama.

H.R. 2215 also ensures effective market competition by making important improvements to federal antitrust statutes, and establishes a Commission to review the adequacy of existing antitrust laws. It promotes America's economic competitiveness by strengthening protections for intellectual property, modernizing the application process at the Patent and Trademark Office, and ensuring that holders of U.S. trademarks are accorded the full protection of international law.

In addition, H.R. 2215 strengthens the integrity of the criminal justice system in several ways. It increases penalties for those who tamper with federal witnesses or harm federal judges and law enforcement personnel, authorizes danger pay for federal agents in harm's way overseas, and contains important provisions to reduce illegal drug use. The report also makes important improvements to address INS administrative processing delays faced by legal immigrants.

Of critical importance, this legislation contains a sweeping and ambitious program to protect at-risk kids. It provides continued support for Boys and Girls Clubs, enhances juvenile criminal accountability, and provides states with block grants to curb youth crime. It represents comprehensive bipartisan legislation the House Committees on Judiciary and Education and Workforce have been working on for several years, and I am proud of its inclusion in the Conference Report. Finally, this bill promotes continued support for federal, state, and local coordination of preparedness against terrorist attacks.

Mr. Speaker, it is my hope that the American people will not have to wait another 23 years for this body to again reauthorize the Department of Justice. Rather, I hope that passage of H.R. 2215 will lead to a period of reinvigorated congressional oversight of the executive branch. Working in concert to identify solutions to the growing challenges faced by federal law enforcement, Congress and The Administration will better provide for the safety and security of American people.

H.R. 2215 makes a critical, long-overdue step in this direction, and I urge your support.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I rise in support of the conference report. I yield 2 minutes to the gentleman from California (Mr. SCHIFF), who has been very helpful in putting this bipartisan package together.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time, and I applaud the bipartisan leadership for their tireless work in bringing this bill to the floor today.

In particular, I am very appreciative that one of my bills, the Law Enforcement Tribute Act, has been included in the reauthorization conference report. This legislation authorizes funding for grants to States and localities to aid in honoring those men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers.

To ensure this funding would allow for the development of many tributes around the country, there is a limit that no award may be greater than $150,000; and the bill further requires a match by the State or locality requesting the funding. The bill authorizes $3 million a year for 5 years to be administered through the Department of Justice and would provide enough funding for 20 projects each year.

Mr. Speaker, I would like to explain briefly why this bill is so important. In one of the communities I represent alone, Glendale, California, four police officers and one sheriff's deputy have been killed in the line of duty. Many others have suffered injuries and illnesses that have contributed to early deaths. The ultimate sacrifice they have made deserves this recognition.

One of those fallen heroes was Charles Lazzeretto, a Glendale police officer killed in the line of duty only 4 years ago. Another involves Janice Starnes of Martinsville, Indiana, whose husband, Dan, was killed in the line of duty in July of 2001, just months after they celebrated their 25th anniversary. Earlier this year, Janice wrote a check for $400 to start a fund to honor her husband and two other officers also killed in the line of duty. In a letter that we received from her, she writes:
"He was the best friend to our sons. Dan paid the ultimate sacrifice. He has always been my hero, and now others can be honored by this memorial. I want to live long enough to see this memorial completed."

Well, it is a pleasure to see us in the Congress of the United States. I want to thank the original cosponsor, the gentleman from Virginia (Mr. DAVIS); our subcommittee chairman, the gentleman from Texas (Mr. SMITH); and the gentleman from Virginia (Mr. SCOTT), the ranking member of the subcommittee, for their work; and the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee; and the gentleman from Michigan (Mr. CONYERS), the ranking member of the full committee, for all of their assistance. To the many organizations of law enforcement who have supported it, I thank them; and I urge the support of my colleagues.

Mr. SENSENBRENNER. Mr. Speaker, I yield a quick 1 minute to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me this time.

This conference report contains intellectual property provisions which are very significant, such as PTO reauthorization; the patent reexamination reform proposal; intellectual property technical amendments; the TEACH Act, regarding the distance education program; and the Madrid protocol implementation concerning the international registration of trademarks.

Our subcommittee of the Committee on the Judiciary, Mr. Speaker, has worked a long time on these matters, and in the case of the Madrid protocol for 8 years. This is much-needed reform that will benefit the intellectual property owners of the intellectual property community, and the American public as well.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise in support of this conference report. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), our chairman; and the gentleman from Michigan (Mr. CONYERS), our ranking member; and the gentleman from Virginia (Mr. SCOTT), the ranking member of the subcommittee, for their efforts to pass the first DOJ authorization bill in 20 years. I enjoyed working with them as a member of the Committee on the Judiciary and as a member of the conference committee to bring this legislation to the floor.

This is an excellent piece of legislation that deals with a large number of important issues. I would like to focus on two of them today.

I am very pleased that we were able to create a permanent Violence Against Women Office and make the director of the Office a Senate-confirmed appointee. This provision will strengthen the existing office, enhancing the Department of Justice’s capacity to address the continuing problems of domestic violence and sexual assault.

Domestic violence and sexual assault are still scourges on our Nation. The statistics are chilling. Nearly one in three women will experience either domestic or sexual assault in her lifetime. These horrible crimes damage lives and tear families apart. The Violence Against Women Act is a proven part of the solution to these problems, and a permanent office with a strong director will help us continue to move forward to end this problem forever.

I want to thank the gentlewoman from New York (Ms. SLAUGHTER), my colleague, for introducing the original legislation; and I also want to appreciate the work of the gentlewoman from Maryland (Mrs. MORELLA) and the gentlewoman from Colorado (Ms. DEGETTE), and also appreciate the gentleman from Michigan (Mr. CONYERS), the ranking member, for their efforts on this.

I thank the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), for the work that he did to make sure that we found appropriate legislative language that meets the great need for strong Violence Against Women Office.

Mr. Speaker, this bill also includes an important, although somewhat obscure, provision that will help promote education. The bill includes the Technology Copyright and Copyright Harmonization Act, also known as the TEACH Act. The TEACH Act extends the current exemption of educational use of copyrighted materials to distance learning. This will allow our schools, colleges, and universities to expand educational opportunities through new technology. Copyright holders and our educational institutions worked hard to develop this compromise language. I am pleased we were able to introduce it and include it in this bill, and I urge my colleagues to vote for this conference report.

Mr. SENSENBRENNER. Mr. Speaker, I yield a quick 1 minute to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time.

This legislation contains several bills originated by the Subcommittee on Crime, Terrorism and Homeland Security. This also includes the Anti-Terrorism and Security Act, the Law Enforcement Terrorism Prevention Act, and the Authority to Po fight Terrorism Act.

Additionally, this legislation increases penalties for threatening Federal judges and other Federal officials, and for threatening witnesses, victims and informants.

An immigration provision I sponsored benefits the high-tech sector. It allows high-tech workers with H-1B status to stay in the U.S. for an additional 2 years to extend their stay in the U.S. while their application is pending.

This legislation provides for three additional judgeships in Texas, two permanent district judges in the western district and one temporary district judge in the eastern district.

Mr. Speaker. I urge my colleagues to support this conference report.

Mr. Speaker. Section 11030 A of the conference report will permit H-1B aliens who have labor certification applications caught in lengthy agency backlogs to extend their status beyond the 6-year limitation or, if they have already exceeded such limitation, to have a new H-1B petition approved so they can apply for an H-1B visa to return from abroad or otherwise re-obtain H-1B status.

Either a labor certification application or a petition must be filed by the end of the 6th year prior to the end of the 6th year in order for the alien to be eligible under this section. The slight modification to existing law made by this section is necessary to avoid the disruption of important projects caused by the sudden loss of valuable employees.

This corrects a problem created in the American Competitiveness in the 21st Century Act (Pub. L. 106–313)(AC21). The provision, as it was originally written, allowed for extensions of H-1B status beyond the usual 6 years, but required that a labor certification be filed more than 365 days before the end of the 6th year and that an immigrant petition, the next step in the long line to permanent residency, be filed before the end of the 6 year as well.

When it passed AC 21, Congress intended to protect foreign nationals and the companies who sponsor them from the inequities of government bureaucracy inefficiency. This specific provision was put in place to recognize the lengthy delays at INS in adjudicating petitions, rather than DOL. But since that time, DOL has slowed down its own processing, and the provision as it was originally written has become useless for many otherwise qualified applicants.

The conference report allows for those in H-1B status to get extensions beyond the six years when a labor certification was filed before the end of the fifth year, without regard to the ability to file an immigrant petition within the next year. Those whose petitions are about the sixth year and that an immigrant petition by the end of the sixth year, which is simply impossible when DOL has not finished its part in the process.

This recognizes that these individuals are already well-valued by their companies, have significant ties to the U.S. and whose employers have to prove that they are not taking jobs from U.S. workers.

This legislation allows to permit those who have exceeded their six-year limitation to return to H-1B status. The conference intent for this provision to allow those who already exceeded the 6-year limitation to have a new H-1B petition approved and obtain a visa to return from abroad or otherwise re-obtain H-1B status.

In addition, the compromise reached with the Senate on Title IV of Division B of this legislation relating to the Violence Against Women Office (VAWO) gives the Attorney General discretion about where to place the VAWO in the organizational structure and chain of command of the Department of Justice as did the version contained in the House passed bill.
This compromise does not contain language found in section 402(b)(1) of the Senate bill which stated that the VAWO "shall not be part of any division or component of the Department of Justice." The conference report permits the Attorney General the flexibility to manage the Department's responsibilities in the area of domestic violence.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER), who is the ranking member of the Committee on Education and the Workforce, which did a tremendous job on part of the juvenile justice provisions in the legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in strong support of the conference report. I believe that it offers a balanced approach to reducing juvenile crime and promotes both prevention and accountability. States will have an obligation to protect children in the juvenile justice system. Runaways and truants cannot be contained in secured facilities; juveniles cannot be held in adult facilities. The States have to find a systematic method of addressing a disproportionate number of incarcerated juveniles.

It also includes for the first time a measure aimed at preventing the abuse of juveniles in residential camps, many of whom are in federally funded, but State supervised, foster care. These camps have operated away from the public scrutiny for too long, and the result is that children have suffered serious injuries and, in several circumstances, children have died. This provision requires that residential camps be licensed in the State in which they are located and also meet the licensing standards of States which send juveniles for placements.

I also want to take time to thank so many people who participated in these compromises and the legislation. I want to thank Bob Sweet and Krisann Pearce of the majority staff on the committee; Judy Borger with the staff of the gentleman from Pennsylvania (Mr. GREENWOOD); and Ruth Friedman and Cheryl Johnson and Denise Forte of our staff on the minority side. On the Senate side I want to thank Tim Lynch and Beryl Howell with Senator LEAHY, and Jeff Miller with Senator KOHL, and Leah Belaire with Senator HARKIN.

Mr. Speaker, I also would like to thank the gentleman from Virginia (Mr. SCOTT) for all the work that he did on behalf of this legislation to make it fair and equitable. It is a good piece of legislation.

Mr. SENSBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHRINGER), the distinguished chairman of the Committee on Education and the Workforce.

Mr. BOEHRINGER. Mr. Speaker, let me congratulate our colleagues on the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSBRENNER), the chairman of the committee, and his colleagues for their very good work on this DOJ authorization bill.

I am very pleased that the chairman has included the provisions of juvenile justice that we have been trying to pass in the House for 7 years. We have had countless numbers of hearings, countless numbers of markups; we have been to the floor three times, and finally, this 6-year project is finished.

I just want to thank the two people most responsible on that committee, and that would be the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Virginia (Mr. SCOTT), who have really worked hard to help pull this together. I also want to thank the chairman of the subcommittee, the gentleman from Michigan (Mr. HOEKSTRA), for his fine work; one of our committee staff, Bob Sweet, who just did incredible work, working with Members and staff on both sides of the aisle to bring about what I would describe as a very good agreement and something that has alluded us for a long time.

Lastly, let me thank two other people, my colleague, the gentleman from California (Mr. GEORGE MILLER), the ranking member of my committee. We have a very good relationship, and we have been able to work through many of these difficult issues. Lastly, let me thank again Chairman Sensenbrenner for his willingness to include this issue, this juvenile justice bill in this DOJ conference report.

Mr. SCOTT. Mr. Speaker, I yield 2½ minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in support of H.R. 2215, the Department of Justice Authorization Conference Report.

I am pleased that the conference included my bill H.R. 28, the Violence Against Women's Office Act, which was approved by the House last year and would make the Violence Against Women Office a permanent and independent force in the Department of Justice.

Created in 1995, this office has been absolutely critical in heightening awareness within the Federal Government and the entire Nation about domestic violence, sexual assault, and stalking. The office formulates policy and administers more than $270 million annually in grants to State governments, as well as to local community organizations, police, prosecutors and courts to address violence against women. In addition, it assists these organizations with education and training to ensure the highest quality services to victims and the full administration of justice.

The importance of this office cannot be overstated. In fact, in a survey conducted by the National Coalition Against Domestic Violence, reports of domestic violence have dropped 21 percent since the inception of this office. Much remains to be done, however, as nearly 25 percent of women also reported they had been physically and/or sexually assaulted by a current or former intimate partner at home some time in their lifetime. These statistics illustrate the importance of the Violence Against Women Office to the health, safety and survival of women all over America.

The conference report creates an independent Violence Against Women's Office within the Department of Justice, rather than making the office a part of the Office of Justice programs. The policy independence of the Violence Against Women Office is critical in carrying out its unique mission with regard to both its policy and grant administration efforts to prevent violence against women.

The office's work with grantees on very sensitive issues is vital and will be best addressed through a separate and independent office. This valuable resource has been specifically authorized by statute, and will be a permanent part of the government's anti-violence efforts.

Ending violence against women is an ongoing struggle, and one of the best tools is the Violence Against Women Office. I want to give my thanks to the gentleman from Virginia (Mr. SCOTT), the ranking member, and to the gentleman from Wisconsin (Mr. SENSBRENNER) for bringing this good bill to the floor today. I give it my support.

Mr. STUPAK. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK), who contributed significantly to this legislation.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me time to me. Mr. Speaker, I am pleased to rise in support of this conference report, which contains a provision that has worked on for several years, the James Guelff and Chris McCurley Body Armor Act of 2002. I introduced this bill with Asa Hutchinson and the gentleman from Virginia (Mr. SCOTT), and thanks to their strong support of this issue and the hard work of the gentleman from Wisconsin (Chairman SENSBRENNER), the ranking member, the gentleman from Michigan (Mr. CONYERS), and Senator FEINSTEIN, this bill will finally be enacted into law.

We are providing invaluable assistance to our Nation's law enforcement at a time when their mission is even more important. Violent felons will be prohibited from owning body armor, and serious crimes committed while wearing body armor will be punished more severely.

Criminals wear body armor in the commission of crimes so they can outgun our law enforcement officers and facilitate their criminal intent. This must be stopped. We cannot allow criminals to have an advantage over the men and women that put their lives on the line every day to protect society. The days of the Wild West are
I want to give special credit for the hard work on this bill to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Crime, Terrorism, and Homeland Security, and the gentleman from Pennsylvania (Mr. GREENWOOD), who has worked for years on juvenile justice legislation.

Juvenile justice bills in the past have been based on the advice of political pollsters and consultants. These bills, however, were developed based on advice of juvenile justice researchers, administrators, judges, educators, and other experts in the field.

The Committee on the Judiciary bill provides for accountability of the juvenile to the law, as well as accountability of the juvenile justice system to the juvenile and the public through a program of graduated sanctions and services.

States and localities are provided with resources to ensure that offenses by juveniles are responded to with an appropriate degree of punishment and/or services, as the individual case requires, graduated and increasing in the level of punishment or services with any subsequent offenses until the problems plaguing about such offenses are resolved.

The education bill authorizes the Juvenile Justice and Delinquency Prevention Act for the first time in almost 6 years. We have maintained the core requirements of the act to protect juveniles from abuse and that direct resources towards reducing over-representation of minorities in the system.

This reauthorization also provides resources through a delinquency prevention block grant designed to identify at-risk children and to address difficulties which may lead to juvenile offenses before such offenses occur through proven juvenile delinquency prevention programs, at the state, county, and local level.

The juvenile justice provision of the report also contains a provision to ensure that the Office of Juvenile Justice and Delinquency Prevention has continued responsibility for the oversight and planning for the research, evaluation, and statistical functions of the office, in addition to grant and contracting authority for these functions.

The research and evaluation arm of that office has been critical to the development of effective juvenile delinquency prevention programs, and this reauthorization reaffirms its important role within the office.

In sum, Mr. Speaker, the juvenile justice provisions of this bill will provide the necessary resources to effectively reduce juvenile delinquency and hold juveniles accountable for any offenses they commit.

I am also pleased to see several other items in the bill which are the result of bipartisan cooperation. We converted a provision which has deadlocked both Chambers on the issue of juvenile justice in recent years.

I am also pleased to have worked to include in the bill the bill introduced by the gentleman from Michigan (Mr. STUPAK), providing our brave law enforcement officers with bulletproof vests, and another bill introduced by the gentleman from California (Mr. SUCCASINO) to provide critical services to those who have paid the ultimate sacrifice protecting the public from criminals.

Mr. Speaker, there are provisions in the bill which some would prefer would not be there, and some were left out which some would have preferred were in the bill, but the bill represents a well-reasoned, bipartisan effort to fund important programs in the Department of Justice.

I would like to commend the Members on both sides of the aisle, and our respective staffs in both Chambers, for their hard work and accomplishments, as well. I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank my colleagues, for their leadership in ensuring that we have an effective, bipartisan, cooperative method in developing this conference report.

It is because of that kind of leadership that we have for the first time in over 20 years a bill to authorize the programs and funding in the Department of Justice.

Mr. Speaker, this bill is based on the provisions that both sides of the aisle in both Chambers can agree on, rather than provisions which divide us based on the differences in the area that I represent.

For years, juvenile justice programs and funding have been characterized in both Chambers by contention and differences. In this bill are two juvenile justice provisions, one developed in the Committee on the Judiciary and one developed in the Committee on Education and the Workplace. Both bills were developed through bipartisan cooperation and agreement, in stark contrast to the legislation which has deadlocked both Chambers on the issue of juvenile justice in recent years.
provided by this section and the additional full-time employees will support the expansion of the Community Relations Service's efforts to address heightened tension and potential for conflict in many communities in the wake of the September 11, 2001 attacks on the United States.

I am also pleased that the conference report creates a Violence Against Women Office with the Department of Justice. The Office will be headed by a Director who reports directly to the Attorney General and has final authority over all grants, cooperative agreements and contracts awarded by the Office.

Finally, Mr. Speaker, the conference committee wisely decided not to include a Senate provision would have exculpated federal government lawyers from the responsibility to follow the same ethical rules that bind other lawyers. The Senate provision was not only unnecessary, but would have been counterproductive to the goal of truly professional law enforcement.

Mr. Speaker, I strongly support this important legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to speak to Section 312 of the Conference Report accompanying H.R. 2215, as well as to support passage of this important legislation.

On the 21st of May this year, I wrote to Congressman SENSENBRENNER and Ranking Member CONVIERS to express my concern for the dire shortages of federal judges in the State of New Mexico, and to request that the Committee authorize an additional judgeship for the District of New Mexico in the 21st Century Department of Justice Appropriations Authorization Act.

Today, I want to thank Chairman SENSENBRENNER, Ranking Member CONVIERS and the members of the Conference Committee for including appropriations for an additional temporary judgeship for the State of New Mexico in Section 312 of the Report.

New Mexico is the 3rd busiest judicial district in the nation behind southern California and western Texas. In 1996, the Judiciary Council recommended that New Mexico receive a permanent judgeship and one temporary judgeship. Two years later, the council reiterated that recommendation. Then, in 2000, the Judicial Conference recommended that New Mexico receive two permanent judgeships and one temporary judgeship.

Since the Conference’s first recommendation six years ago, the caseload in the federal courts in New York has been on the rise, seemingly growing exponentially each year. Accordingly, the judgeship appropriated in Section 312 will help alleviate the pressure felt within this increasingly overloaded judiciary system, and provide the people of New Mexico more efficient accessibility to federal courts.

Once again, I think my colleagues for considering my request.

Mr. NABER. Mr. Speaker, I rise in support of the DOJ authorization bill because it does enhance the Violence Against Women Office and increase assistance to our law enforcement officers.

I also applaud the provision of the bill that directs the Attorney General to conduct a study assessing the number of untested rape examination kits that currently exist nationwide.

However, I know we could have done more.

It would be nice to know how many rape kits are outstanding. But it is much more important that we fund the DNA analysis of the kits and solve crimes, rather than simply counting how many kits remain on the shelf. We know there are outstanding kits, anywhere from 150,000 to 500,000 of them, and we need more of them tested. Asking for a study doesn’t put any rapists behind bars.

Now, you may ask, what else could we possibly do about this?

Well, we could have put money for testing into the DOJ authorization bill. In fact, I asked the distinguished Chairman to do just that. He told me the study was the best he could do. Well, I know we can do better. In fact, the Senate already has. The Senate already had hearings, already had a markup, and already passed a bill under unanimous consent. Now, the House has the opportunity to take up S. 2513, the DNA Sexual Assault Justice Act. We could have put this bipartisan bill into the conference report, but we didn’t.

The Senate bill included $500,000 for a study, but in the Senate bill also includes $15 million a year for DNA testing for convicted felons, $75 million a year to test rape kits, and $150 million over five years to train nurses how to better collect evidence. That is a lot better and would make much more of an impact than an unfunded study.

Now, somehow we didn’t have time to address this problem. Well, I introduced a bill to solve this problem back in March of this year. It has never had a hearing. It has never been considered by the Judiciary Committee. It has been ignored, just like all the other DNA bills. So, we had plenty of time to address this issue, the Republican leadership simply chose not to.

This is a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them behind bars. We all know that DNA evidence is essential to solving crimes. It can lead to punishment of the guilty and the freeing of the innocent. The Department of Justice released a statement yesterday that mentioned the “unprecedented success in linking serial violent crimes by registering DNA samples to the FBI’s National DNA Index System (NDIS) last month.” The Department also states that “two of these matches resulted in the arrest in Pennsylvania of the perpetrator of two rapes.” The DOJ reports that the DNA evidence solved cases and that nine matches involved connecting together previously unrelated crime scenes.

We must commit the necessary resources now to empower law enforcement to analyze all of the DNA evidence they collect, so that they can solve cases and bring justice to American families.

We already have a non-controversial bill that we could make law very quickly (we could even do it today), and it would be an immediate benefit to people all across America, especially victims of rape and sexual assault.

It is time Congress send a hand to our law enforcement officers and provide them with the funds needed to solve these crimes and put rapists behind bars.

Since some Members were unwilling to include the Senate rape kit bill in this authorization bill, I urge the leadership to bring the Senate bill up for a vote as soon as possible.

I have a letter here signed by more than a dozen Members of Congress urging Majority Leader ARMY to take up the Senate bill, and I ask unanimous consent that this letter be included as part of the RECORD. I also ask unanimous consent to include the Statement by the U.S. Department of Justice that I mentioned earlier.

STATEMENT OF U.S. DEPARTMENT OF JUSTICE

The FBI Laboratory today lauded state and local laboratories unprecedented success in linking serial violent crimes by registering more than 80 matches against the FBI’s National DNA Index System (NDIS) last month. Additionally, the FBI’s federal convicted offender program recorded its first NDIS match during the final week in August.

The federal match was between the federal convicted offender database and a DNA profile from a case involving a sexual assault of a juvenile in Tampa, Florida contributed by the Florida Department of Law Enforcement. Two weeks later, as a result of this match, an arrest was made in this case.

The final week of August was one of the most successful weeks ever in the four years that NDIS has been operational. During that week, 33 matches were made, 17 by Oklahoma state’s upload into NDIS. To illustrate the power and reach of NDIS, Oklahoma’s DNA matches were made with cases in the FBI Laboratory, Kansas, Missouri, Texas, Arizona, Maine. Examples of other matches included the FBI Laboratory matching a profile from New York; and Virginia posting matches with Washington state and Oregon.

Of the 33 matches made in the last week of August, 24 matched convicted offender DNA profiles already contained in the national database with DNA profiles from unknown individuals obtained at crime scenes or from rape kits, thus solving these previously unsolved cases. Two of these matches resulted in the arrest in Pennsylvania of the perpetrator of two rapes. The other nine matches involved connecting together previously unrelated crime scenes.

The FBI implemented NDIS is October, 1998 to allow state laboratories the ability to electronically compare and exchange DNA profiles with one another in an effort to link similar offender offenses. Today, the FBI and U.S. Army Lab participate in the NDIS program containing nearly 1.4 million offender DNA samples and 47,000 DNA profile profiles developed from crime scenes and rape kits. In the four years of NDIS, there have been approximately 5,000 DNA profile matches across 36 states and the District of Columbia. In December, 2000 legislation was passed which authorized collection and inclusion of DNA samples of certain federal offenders into NDIS. Full implementation of the federal convicted offender program began in July, 2002. In only the second upload of federal data, the first federal match was made.
ABC’s 20/20 reports that hundreds of thousands of rape kits sit unprocessed in police storage units across the country. There could be anywhere from 150,000 to 500,000 kits that need examination. That means that DNA evidence from rape kits is going untested and crimes are going unsolved. This is totally unacceptable. It is time for Congress to lend a hand to our police officers and provide them with the funds needed to solve these crimes and to put rapists behind bars.

This is a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them behind bars. We all know that DNA evidence is essential to solving crimes. It can lead to punishment of the guilty and the freeing of the innocent. We must commit the necessary resources now to empower law enforcement to analyze all of the DNA evidence they collect, so that they can solve cases and bring justice to American families.

As the number of bills on this issue as well as the number of supporters indicate, there is strong public interest in this issue. We hope that you will schedule S. 2513 for House floor consideration as soon as possible.

Sincerely,

Jerrold Nadler, John Conyers, Jr., Bernard Sanders, Gary Ackerman, Rod Blumeych, Dennis Davis, Carolyn Maloney, Robert Andrews, Lane Evans, Rush Holt, Corrine Brown, Maurice Hinchey, Tammy Baldwin, Brad Car- son, James Langevin, Sam Farr, Juanita Millender-McDonald, Ron Kind, Eleanor Holmes Norton, Julia Carson.

Mr. TERRY. Mr. Speaker, this Conference Report does not include a permanent Judgeship for the State of Nebraska. Since 1998 Nebraska has exceeded the weighted standard of 430 filings per judge, and in 2001, that number grew to 482 filings. Without this permanent Judgeship, over the next year filings are expected to rise to over 600 per Judge. Currently, the caseload in Nebraska is the 9th heaviest in the Nation, and is only expected to increase. Nebraska has a higher drug prosecution rate than any other federal court in the 7th and 8th circuit; 65 percent of our drug cases are methamphetamine prosecutions, compared to a national average of 14.5 percent. The continued absence of this Judgeship hurts the citizens of Nebraska and brings an already over-worked court system to near standstill.

This permanent Judgeship was included in the House-passed Department of Justice Authorization bill, and I would like to thank Chair- man SENSENBRENNER and Ranking Member CONYERS for their assistance in this effort. However, I learned last night that the Nebras- ka’s permanent judgeship designation had been stripped from the conference report. I have no idea why this language was stripped out, and it upset me that I’ve been unable to obtain a definitive answer. I’m left to believe that this designation was eliminated due to political concerns, and it was not a decision based upon merit or need.

Nebraska has had a temporary Judgeship since 1990 and will expire in November 2003. What occurred in conference is unfair to the State of Nebraska, and will negatively impact an already strained court system.

NEBRASKA TEMPORARY/PERMANENT JUDGESHIP ISSUE, APRIL 8, 2002

1. Need for permanent judgeship in Ne- braska is critical:

   A. Temporary judgeship created in 1990.
   C. Based on 430 weighted standard, Ne- braska eligible for even a fifth judge, but not asking for that.
   D. Since 1998, District of Nebraska exceed- ed 430 weighted filing per judge.
   E. In 2001—federal caseload was 482 per judge, with a 95 percent confidence level of 525–440 cases.
   F. 2001 busiest year in last 6 years with 1500 new filings and 1242 pending cases.
   G. Weighted filings in 2001—482, highest in last six years, compared to 377 in 1996.
   H. Without this judgeship, weighted filings expected to exceed 600 per judge.
   I. Criminal filings very heavy:
      A. Very heavy for last 12 years and con- tinue to increase.
      C. Caseload per judge is double that of 1996: 118 per judge vs. 58 per judge.
   J. Average caseload is 50 percent greater in criminal cases than average federal judge.
   K. Heavier case load than judges in New York City, Chicago, or Los Angeles.
   L. District is 17th heaviest in nation in 1998, 12th in nation in 1999, and 9th in nation in 2001 (ranks 9th out of 94 districts).
   M. Caseload per judge is double that of 1996: 118 per judge vs. 58 per judge.
   N. Average caseload is 50 percent greater in criminal cases than average federal judge.
   O. Heavier case load than judges in New York City, Chicago, or Los Angeles.

2. Nebraska’s drug docket is 66 percent, while national average is less than 40 percent.

3. Drug cases are methamphetamine, compared to national average of 14.5 percent.

4. Nebraska ranked 2nd in the number of high level drug trafficking defendants indicat- ed and convicted in the Central Region (includes 12 states).

5. Criminal caseload is expanding; crack cocaine defendants doubled over last year, and meth defendants increased 88 percent.

6. Senior judges:
   A. Two senior judges, and each carry about 100 cases.
   B. Will not be able to continue to carry a caseload that heavy.
   C. Both judges are over 75, and one has in- dicated he wishes to cut his caseload by 50 percent in 2002.
   D. No additional help from senior judges available.
   E. Note that one active judge has serious cancer, but no senior judges available in future to help with that caseload.

7. Magistrate:
   A. Three magistrate judges, two in Omaha and one in Lincoln.
   B. All three are utilized in criminal cases, preliminary civil dispositions, ADR manage- ment, and consent trials.

8. Visiting Judges:
   A. Forced to request assistance of visiting judges in 2001 to handle the heavy volume of criminal/civil cases.
   B. Will not address severe problem.

9. Current legislation:
   A. H.R. 2215 does not include a rec- ommendation that Nebraska temporary judgeship be converted into a permanent one, although recommendations for other states (Central District of Illinois, Southern District of Illinois, and Northern District of Ohio) are addressed.
   B. Nebraska must be included in that legis- lation.

Mr. BEREUTER. Mr. Speaker, today the House is considering the conference report on H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act which includes a provision for Nebraska, that makes several existing temporary Federal judgeships permanent. Un- fortunately, Nebraska was not included on the list.

This Member greatly appreciates the at- tempts by the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER) to make this critically important improvement for the people of Nebraska. Despite the gentleman’s best ef- forts, the conferees from the other body would not agree to include Nebraska on this list. As a result, Mr. Speaker, I am disappointed that the Nebraska judgeship was not included in the final conference report.

The Nebraska temporary judgeship was cre- ated in 1990, and will expire with the first vac- cancy after November 2003. The caseload for the Federal District Court in Nebraska has steadily increased since that time, ranking well above the Judicial Conference weighted standard of 430. In fact, in 2001, there were 1500 new filings and 1242 pending cases, with a weighted filing of 482. Without this judgeship, the weighted filings are expected to exceed 600 per judge. In addition, Nebraska currently has two District Court judges who have taken senior status and are expected to retire in the near future, further increasing the caseload on Nebraska judges.

Mr. Speaker, clearly, this is an important issue to this Member and to the State of Ne- braska. It is impossible for this Member to un- derstand the reason this important change was not included in this conference report. The opportunity was available and yet inexplicably not taken by the conferees from the other body. However, because of the many important provisions in this bill, this Member will vote “aye” even while expressing his extraordinary disappointment and regret that the permanent Nebraska judgeship was not included in the conference report. If there was a problem on another issue or judgeship in the House offer, Nebraskans did not de- serve to lose this opportunity for the much- needed permanent judgeship designation.

Mr. GALLEGLY. Mr. Speaker, today, along with my fellow conferees, I’m pleased to de- liver a comprehensive conference report and ask for other members’ support. We have worked diligently to address a wide variety of issues. From crime prevention programs, to drug education and treatment, a fix in the H1- B visa system and the inclusion of the Judicial Improvements Act, this conference report is a complete package. I’d like to take the oppor- tunity to highlight these provisions and thank several individuals who made the inclusion in this conference report possible.

First, the conference report includes a provi- sion that permits consumers who visit wineries to ship a limited quantity of wine back to their homes. This language is needed because post-September 11, as the Federal Aviation Administration and Congress supported strong airline security measures, it became difficult, if not impossible, to carry-on bottles of wine after a visit to a winery. This provision is not only pro-consumer, but it is also very impor- tant to California’s $12 billion wine industry. I would like to thank Chair- man SENSENBRENNER and Senator Boxer for their support on this provision.

In addition to the direct shipment of wine, we are also including legislative language that will allow motor vehicle dealers, who sign franchise contracts with manufacturers, to have the opportunity to either accept or reject man- ufacturer arbitration disputes. Currently, the mandatory arbitration re- quirements are either “take it or leave it” pro- visions in the contracts, forcing auto dealers to
waive important legal safeguards. I would personally like to thank Chairman SENSENBRENNER and Congressman GEKAS for their support on this issue.

Finally, I am very pleased that this conference report includes five additional federal judgeships for the Southern District of California. This is in addition to one temporary judgeship for the Central District of California. The numbers speak for themselves; the Southern California District is the most overwhelmed in the country and greatly needs these additional judgeships. By the year 2000, the weighted caseload for the 312th District was 978 cases per judge. That was more than double the national average of 430. Most alarming is the number of felony cases, which tripled between 1994 and 1999 without additional judgeships. These additional judgeships will ensure that the very integrity of our judicial process will be protected. For that, I’d like to thank all of the conference’s supporters.

Mr. CONYERS. Mr. Speaker, we all know by now that this is an historic moment—Congress has not reauthorized the Department of Justice since 1990, and this conference report authorizes appropriations for the Justice Department, it also establishes federal judgeships. Despite the efforts of Chairman SENSENBRENNER, this legislation fails to make permanent Nebraska’s temporary judgeships, which is set to expire November 20, 2003.

Caseloads for U.S. district judges in Nebraska have climbed steadily largely because of an increasing number of criminal cases, particularly those related to drug trafficking. In fact, criminal cases have more than doubled since 1995. Like many other states in the Midwest, Nebraska has been judged in recent years by an influx of methamphetamine (meth), and criminal cases involving meth represent 66 percent of Nebraska’s drug docket, compared to the national average of 14.5 percent.

The influx of meth in Nebraska will continue to cause the criminal caseload to increase. In the last year alone, the number of meth defendants increased by 88 percent. Interstate 80, which runs the length of the state of Nebraska, is one of the primary transit routes used for drug trafficking across the central United States. This has contributed to Nebraska being ranked second in the number of defendants increased by 88 percent. Interstate 80, which runs the length of the state of Nebraska, is one of the primary transit routes used for drug trafficking across the central United States. This has contributed to Nebraska being ranked second in drug docket, annually.

This substantial increase in Nebraska’s criminal trials leaves Nebraska’s federal judges with extremely heavy caseloads. In fact, Nebraska’s judges carry a heavier criminal caseload than judges in New York City, Chicago, and Los Angeles. This fourth district is critically important to Nebraska, and without it, criminal cases will move more slowly and handling civil cases will become increasingly burdensome.

Mr. Speaker, while I am grateful for the efforts of Chairman SENSENBRENNER on this issue, I am very disappointed this conference report does not address Nebraska’s serious need for a permanent judgeship. Without this fourth judgeship, Nebraska’s criminal justice system will be in real trouble.

Mr. ISSA. Mr. Speaker, I rise in support of the Conference Report for H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act.” I thank Chairman JAMES SENSENBRENNER, the House and Senate Conferences and the Judiciary Committee staff for their leadership on this bill.

Within the Conference Report, in section 312, the Southern District of California will receive five judgeships. This authorization will bring immense relief to this district. As you may know, Southern California has the dubious distinction of having the highest judge to caseload ratio in the nation. I have met with four of the sitting judges in this district and have seen first hand the problems they face on a daily basis. In 1998, the Southern District, which has 8 judgeships, had a weighted caseload of 1,006 cases per judge, annually. I am grateful to have a conference report that will give us a much needed relief to the caseload to judges from different regions of the United States to show you how overloaded the judges in the Southern District of California are:

New York has 28 judgeships and each one handles 468 cases annually, LA has 27 judgeships/481 caseload, Chicago—22 judgeships/381 caseload, Houston—18 judgeships/588 caseload, Philadelphia—22 judgeships/381 caseload.

Congress has not authorized any new judgeships for the Southern District since 1990, and with this district being a border corridor, I do not expect the level of criminal activity to diminish in the near future. Passing this bill is necessary to ease the burden on the sitting judges of the Southern District.

Mr. SCOTT. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time, and I move to the previous question on conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GILL MOR). The question is on the conference report.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it. Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 4, not voting 28, as follows: [Roll No. 422]
Mr. HASTINGS of Florida changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above reported.

A motion to reconsider was laid on the table.

Mr. NUSSLE. Mr. Speaker, I reserve my right under this unanimous-consent resolution.

The gentleman from California. Mr. GIJSELINK.

The gentleman from Florida. Mr. Speaker, on rollcall of H.R. 422 I was inadvertently detained. Had I been present, I would have voted "yea."

Mr. ENGLISH. Mr. Speaker, on the motion to reconsider, I reserve my right under this unanimous-consent resolution.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.J. RES. 111, CONTINUING APPROPRIATIONS, FISCAL YEAR 2003

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without further permission of any point of order to consider in the House the joint resolution (H.J. Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes; the joint resolution shall be debatable for 2 hours, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and the previous question shall be considered as read for amendment; the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from California?

Mr. NUSSLE. Mr. Speaker, I reserve the right to object to the request of the gentleman from California.

Mr. YOUNG of Florida. Mr. Speaker, on rollcall of H.R. 2215, "no" on the Journal, and "yea" on the motion to instruct conferences on H.R. 3295.

Mr. GILCHREST. Mr. Speaker, I reserve my right under the unanimous-consent resolution.

Mr. NUSSLE. Will the very distinguished gentleman with me on the next continuing resolution that we understand will be necessary to ensure that one-time, nonrecurring emergency designated expenditures are not included in the base used to calculate the current rate of operations?

Mr. YOUNG of Florida. If the gentleman will yield further, it is not my intention that any true one-time nonrecurring expenditures from last year's supplements be included in the base of any continuing resolution. It is my understanding that under any short-term CR, the Office of Management and Budget can avoid funding one-time items.

Mr. NUSSLE. This short-term CR would, if it were to last for an entire year, provide, according to the Congressional Budget Office, $743.3 billion in budget authority which in fact would not exceed the appropriate level in the budget resolution because defense is assumed to continue at last year's level. However, if it were annualized and the defense and military construction bills were enacted at even the House-passed levels, it would exceed the budget level by $8.2 billion. Of course, that assumes that these emergencies would continue. Will the gentleman assure the House and work with me in assuring the House that any further future continuing resolutions will come in under, on an annualized basis, the $749 billion in new budget authority assuming the enactment of the defense and MILCON bills at the levels requested by the President?

Mr. YOUNG of Florida. If the gentleman will yield further, the gentleman's estimate is correct only if you assume that one-time spending continues. No one else has included such items in their estimates, including OMB. So it is my intent that any CR provide the most limited funding possible under a current rate. If the defense and military construction bills are enacted and the 11 remaining bills are enacted at a current rate and OMB enacts its authority under the President's fiscal year 2003 budget, the total annualized funding under a CR would be below $749 billion.

Mr. NUSSLE. The resolution that we have before us that the very distinguished chairman of the Committee on Rules is bringing up under this unanimous-consent request is based on what might be referred to as "a rate not to exceed the current rate" for fiscal year 2002. Is it the gentleman's understanding that this would effectively carry forward appropriations from last year's supplements that were designated as emergencies?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Florida.
also remind the House that it is imperative that we pass the remaining fiscal year 2003 bills.

Mr. NUSSLE. If I may reclaim my time, Mr. Speaker, I compliment the gentleman on his work to do just that, and I compliment the Committee on Appropriations in trying to accomplish that goal and will stand by the gentleman to work with him to accomplish that goal.

Mr. OBEY. Mr. Speaker, reclaiming my time, of course not. That is the problem. This House has ducked its responsibility for 8 months, and is now looking for a way to get out of town without having voted on the specifics.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. DREIER. Mr. Speaker, if the gentleman will yield under his reservation, I would like to congratulate both the Committee on the Budget and the Committee on Appropriations; and it is an honor to stand between the two very distinguished chairmen of these committees, Mr. Speaker.

Mr. NUSSLE. Mr. Speaker, I withdraw my reservation of objection.

Mr. Speaker, I would like to respond in kind to my friend from Iowa, the chairman of the Committee on the Budget.

Mr. Speaker, I would like to think if we could accept this unanimous consent request to have 2 hours of debate, we could continue it under that procedure.

Mr. OBEY. Mr. Speaker, I respond in kind to the gentleman from Iowa. The fact is that this House has produced final action on only five of 13 appropriation bills. We have the responsibility to finish all 13 of them. This is the worst record the House has had in finishing its appropriations work of the last 15 years. The last time we had such a serious problem was the year after the Reagan tax cuts were passed, and the Congress was trying to find ways, after those tax cuts resulted in huge additions to the deficit, to take additional money out of appropriations bills. So we got hung up in 1981.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, if the gentleman will yield for a procedural comment, I made a request that there be 2 hours of debate once there is agreement in the House to this unanimous consent request that I have just proposed. This is a fascinating exchange that is taking place. The chairman of the Committee on the Budget and the ranking minority member of the Committee on Appropriations. I would like to think if we could accept this unanimous consent request to have 2 hours of debate, we could continue it under that procedure.

Mr. DREIER. Mr. Speaker, the gentleman will yield further. I am not asking anyone to apologize. I am just suggesting that we start the debate.

Mr. OBEY. Mr. Speaker, of course not. That is the problem. This House has ducked its responsibility for 8 months, and is now looking for a way to get out of town without having voted on the specifics.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HANSSEN). Is there objection to the request of the gentleman from California (Mr. DREIER)?
There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask the unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.J. Res. 111, and that I may include tabular and extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? There was no objection.

CONTINUING APPROPRIATIONS. FISCAL YEAR 2003

Mr. YOUNG of Florida. Mr. Speaker, pursuant to the previous order of the House, I call up H.J. Res. 111 (H.J. Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 111 is as follows:

H.J. Res. 111
Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2003, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2002 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2002, at a rate for operations not exceeding the current rate, and for which appropriations for such other authority was made available in the following appropriations Acts:


(13) the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for procurement of items not funded for production in fiscal year 2002 or prior years, for the increase in production rates above those sustained with fiscal year 2002 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for which investment expenditures are further defined as a P-1 line item in a budget activity within an appropriation account and the corresponding activity within the appropriation account number and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during fiscal year 2002: Provided, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically authorized by law.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which were provided by the permanent appropriations Acts.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2002:

SEC. 105. (a) For purposes of section 101, the term “rate for operations not exceeding the current rate” has the meaning given such term (including supplemental appropriations and rescissions) in the attachment to Office of Management and Budget Bulletin No. 01-10 entitled, “Continuing Appropriations Resolution(s) for Fiscal Year 2002” and dated September 27, 2001, applied by substituting “FY 2002” for “FY 2001” each place it appears; but

(2) does not include any unobligated balance of funds appropriated in Public Law 107-38 and carried forward to fiscal year 2002, other than funds transferred by division B of Public Law 107-117.

(b) The appropriations Acts listed in section 101 shall be deemed to include supplemental appropriation laws enacted during fiscal year 2002.

SEC. 106. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such program, project, or activity are available under this joint resolution.

SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until such time as an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act for fiscal year 2003, whichever first occurs.

Succ. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Succ. 109. Appropriations and funds made available or authorized by or pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1501 of Public Law 95-611, the congressional code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Succ. 110. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of funds for fiscal year 2002 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, agencies, or entities, 10 percent of the funds made available and funds shall be awarded for continuation of projects and activities.

Succ. 111. For the Overseas Private Investment Corporation Program account, for the direct and guaranteed lending programs, at an annual rate not to exceed $19,000,000, to be derived by transfer from the Overseas Private Investment Corporation Program non-corporate account, subject to section 107(c).

Succ. 112. Activities authorized by section 403(c) of Public Law 103-356, as amended by section 301 of Public Law 107-117, the Overseas Private Activities authorized under the heading “Treasury Franchise Fund” in the Treasury Department Appropriations Act, 1997 (Public Law 104-134), and the Overseas Private Activities Act, 2001 (Public Law 106-564), may continue through the date specified in section 107(c) of this joint resolution.

Succ. 114. Activities authorized by title IV-A of the Social Security Act, and by sections 10101(b), 11010(b), and 11010(b), of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Succ. 115. Activities authorized by section 1722A of title 38, United States Code may be charged to the applicable appropriation, fund, or authorization for such project or activity, or (c) October 4, 2002, whichever first occurs.
Uniformed Services of the Department of Defense, the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration are made available to pay the members of any such participating uniformed services, to be paid from such accounts into the Fund established under 10 U.S.C. 1111, pursuant to 10 U.S.C. 117.

Sec. 117. None of the funds made available under this Act, or any other Act, shall be used by an Executive agency to implement any activity in violation of section 561 of title 44, United States Code.

Sec. 118. Collection and use of maintenance fees as authorized by section 4(j)(1) and 4(j)(k) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a–1(j)(1) and (k)) may continue through the date specified in section 107(c) of this joint resolution. Prohibitions against collecting “other fees” as described in section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a–1(i)(6)) shall continue in effect through the date specified in section 107(c) of this joint resolution.

Sec. 119. Security service fees authorized under section 119(h) shall be credited as offsetting collections and the maximum amount collected shall be used for providing security services authorized by that section: Provided, That any amounts available from the General Fund shall be reduced as such offsetting collections are received during fiscal year 2003.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 1 hour.

The Chair recognizes the gentleman from Florida (Mr. YOUNG), and Mr. Speaker, I yield myself such time as I may consume.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before the House, H.J. Res. 111, is a continuing resolution, a CR, for fiscal year 2003, and it extends our spending profiles through fiscal year 2003.

At midnight, this coming Monday, the fiscal year ends. None of the appropriations bills has been sent to the President’s desk, regardless of who is at fault. We have heard some discussion on that. We will probably hear more about that. But we need this legislation to continue operations of the Federal Government for the first 4 days of the new fiscal year.

As everyone is aware, the Committee on Appropriations continues to work on the fiscal year 2003 appropriations bills, despite the fact that we have no common budget with the other body. The collapse occurred because we had a breakdown in the budget process, not the appropriations process. The budget process stalled because the body did not adopt a budget resolution. The House did. But because both Houses did not, we had no opportunity to come to conference and reach the same 302(a) number, the 302(a) number being the top number that we would both use in our appropriations process.

Anyway, despite all of that, we continued to produce bills, and we have a number of bills in the queue ready to go when we are given the approval to bring them to the House floor.

I will comment again that without a common 302(a) number, the top number, it is nearly impossible to have a common 302(b) number. The respective subcommittees of the House and the Senate appropriations committees.

It is unfortunate that this is the case, because one of the fundamental responsibilities of Congress is the power of the purse. I emphasize “responsibility.”

The Legislative Branch does not have the authority to write the checks and balances that the founders of our great Nation embodied in our Constitution is lost when the Congress does not complete its work with regard to government spending.

If I might indulge my colleagues in the House for just a moment by reading from Article I of the Constitution, it very simply says, “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”

That is in our Constitution. Unless we do this, we are failing to uphold our basic constitutional responsibilities.

It is unfortunate that our budget process broke down at a critical time for our country when we are currently at war against terror and when the security of our homeland is at risk. I do not believe the people who wrote the Budget Act ever intended that budget debates would get in the way of our national security interests.

The House has passed five of the 13 appropriations bills. We are currently in conference with the Senate on two of those bills, the defense and military construction bills. We are waiting to appoint conferees on the legislative branch bill.

The Committee on Appropriations has reported four other bills that are awaiting floor action, and that is the appropriations bill for agriculture, energy and water, foreign operations and the District of Columbia. On Tuesday of next week we will conclude consideration of the transportation appropriations bill, and next week we also plan to report the VA/HUD bill from the Committee on Appropriations.

But until we get to the point where we can develop a common set of numbers, I do not believe this House and the Senate can work together to spend our money wisely. So it is important that the operations of our government agencies continue without any disruption, and that is what this legislation is about today.

Let me briefly describe the terms and conditions of the CR. It will continue all ongoing activities at current rates, including supplementals, under the same terms and conditions as fiscal year 2002. We have codified the term “rate for operations not exceeding the current rate” as defined in OMB Bulletin No. 01–10. As in past CRs, it does not allow new starts, and it allows for adjustment for one-time expenditures that occurred in fiscal year 2002. It restricts obligations on high initial spend-out programs so the annualized funding levels in this bill will not impinge on our final budget deliberations.

It includes eight funding or authorizing anomalies of which six allow for the continuation of existing programs and fee collections that would otherwise expire. The remaining two provisions will ensure that executive agencies use the Government Printing Office when procuring government print materials, and that the salaries and expenses of the Comptroller General of the United States for the inspection of public money shall be paid from such accounts into the Fund established under current law and to ensure that funding for all of the uniformed services to support the accrual contribution for Medicare-eligible retiree health care is available.

After some of the discussion, Mr. Speaker, this may come as a surprise to some, but I believe the CR is non-controversial, and I urge the House to move this legislation to the Senate quickly so that our government will continue to operate smoothly and efficiently and so that we can continue our work to finish our regular appropriations bills when we are able to do that.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I expect this short-term continuing resolution will pass the House by an overwhelming bipartisan majority. But make no mistake. When it does, it will represent an overwhelming bipartisan indictment of the failures of this Republican House of Representatives.

The fiscal year ends next week, and this Republican-controlled House has passed only five of the 13 appropriation bills. The gentleman who just spoke, the chairman of the committee, is an honest man and a good legislator who has been doing its work. His own leadership has prevented him from bringing the appropriation bills to the floor even though those bills have been reported out of his committee. Republican leaders have stopped even trying to do their work. They have given up on doing the most basic job Congress is elected to do, fund important initiatives in education, health care, and other key American priorities.

A man, shocking as it may be, who is the leader of his party, Mr. Speaker. America is suffering through the weakest economy in 50 years. Unemployment and the poverty rate are up while the stock market and retirement security is down. For too many Americans, the drop in the stock market has turned 401(k)s into 201(k)s.

What accounts for this shameful failure to lead, Mr. Speaker? Simply put, Republicans have put America in a huge deficit ditch, one that poses a
grave threat to Social Security and other priorities like education, prescription drugs, and homeland security, and now they refuse to pick up the shovel and dig their way out of it. We can see it most clearly on education. With much fanfare last year, Democrats and Republicans passed the No Child Left Behind Act, but now Republicans refuse to provide schools with the resources they need to carry out the reforms Congress mandated last year.

That is why the appropriations process is stuck in the House, Mr. Speaker. The majority of the House Republican Conference wants to gut resources for education and other priorities in the bill funding the Departments of Labor, Education, and Health and Human Services. But a few moderate Republicans are afraid to take that vote on the eve of the election.

Over the past week, Mr. Speaker, Republican leaders have turned the House floor into little more than a PR vehicle for the Republican Party. They have wasted time and taxpayers' dollars on numerous, meaningless resolutions. Mr. Speaker, Americans are facing real challenges right now. The economy is weak, prescription drug prices are still sky high, the budget is in deficit, and many Republicans want to privatize Social Security. It is time to quit playing politics. It is time to get back to doing the American people's business.

Free the Committee on Appropriations from their billing their bills on the floor. What is the leadership on that side afraid of?

Mr. YOUNG of Florida. Mr. Speaker, I would like to reserve my time for just another couple of minutes if the gentleman could proceed.

Mr. OBEY. Mr. Speaker, I yield myself 14 minutes.

Mr. Speaker, this is a serious time for the country. In 2 years’ time we have seen a record surplus go to record deficits. Almost 2 million people more out of work today than there were a year ago, a year and a half ago. Economic growth is more anemic than at any time in 20 years. Corporate raiders have dwindled investors and ruined workers' pension plans. The stock market has lost more than $4 trillion in value. The price of health care and prescription drugs is skyrocketing. And almost nothing is being done about that by the American people's government.

We also are conducting a war against terrorism, and now we are considering taking on a new war against Iraq. In the midst of all of that, because of an unreal and incredibly mismanaged budget, this Congress has passed only one of 13 appropriation bills, and that means that 90 percent of our domestic budget is likely by the end of next week still to be unfunded.

Even the defense budget is not funded at this point; we hope it will be funded next week.

Under these circumstances we need to work together; we need a cooperative spirit. The last time we went to war against Iraq, President Bush, Sr., consulted broadly, he respected differences of opinion, he set the tone for cooperation between the U.S. and our allies in the U.N. between the executive and legislative branches of government, between the Democrats and Republicans who serve in this Congress. The result was that we had a spirited debate which I had the privilege of being part of; and after the vote, we all came together, united in purpose and in spirit.

But this time the situation is sadly different, and this President is taking a much different approach at a time when we need to keep discussion on a high plane. We have seen the report in The Washington Post yesterday which questioned the concern of the Senate Democrats about national security. The kind of rhetoric that we saw emanating from this body that on occasions is divisive when it should be unifying, it personalizes issues that ought to be substantive, and it weakens this country's ability to find consensus at a time when we need it badly.

Now, the White House is engaged in a limp apology yesterday and said 'Oh, the President did not mean it; he was not talking about the Iraq debate, he was talking about homeland security.' I would point out that when this President questioned the concern for national security because of their positions on homeland security issues, this is the same President who told me nose-to-nose in the White House that the bipartisan package that the gentleman from Florida (Chairman Young) and I were producing to buttress our homeland security programs after September 11 would be vetoed if we spent one dime more than the President had himself requested for homeland security.

This is the President who resisted our efforts to provide more money to the FBI so that we could end the disgraceful situation under which 50 percent of the FBI's computers could not even send a picture of a terrorist or a suspected terrorist to another FBI computer around the country.

This is the same President who resisted our efforts to add money above the President said no. It was not the other body of this Congress that blocked funds to help the Immigration and Naturalization Service develop the analytical capability they needed to prioritize and track the thousands of illegal immigrants who were inside the United States and identify the ones that are likely to pose the greatest threat to the citizens of this country. Huge bipartisan majorities in both Houses of Congress approved those funds, but the President said no.

It was not the other body of this Congress that blocked funds to help establish a global system of checking containerized cargo on cargo ships before they leave ports overseas rather than after they are on American soil in order to determine if they have radioactive material, chemical, or biological weapons, or other material that may be used to launch acts of terror. Huge bipartisan majorities in both Houses of Congress approved those funds, but the President said no.

It was not the other body of this Congress that blocked funds to help the National Weapons and Research Laboratories to make certain that they can defend them better and their employees against cyberattacks and espionage conducted by terrorist organizations. Huge bipartisan majorities in both Houses of Congress approved those funds, but the President said no.

I would also point out, it was not the other body of this Congress, if the President wants to know, it was not the other body that blocked funds that his own Secretary of Energy requested to protect the shipment of nuclear warheads down U.S. highways from terrorist attacks. Huge bipartisan majorities of this House and the other body approved those funds, but the President said no.

This is the same President who resisted our efforts to strengthen funding for the Nunn-Lugar program to secure nuclear material in the former Soviet Union before it fell into terrorist hands.

This is the same President who resisted our efforts to add money above the President said no. It was not the other body of this Congress that blocked funds to bring the Federal Bureau of Investigation into the information age. Huge bipartisan majorities in both Houses of Congress approved those funds in the supplemental, but the President said no.

It was the other body of this Congress that blocked funds to attack the root cause of terrorism, to provide the necessary support for victims of terrorism, and to resolve the conflict in the Middle East. Huge bipartisan majorities in both Houses of Congress approved those funds, but the President said no.

Despite all of that, I do not think we saw Democrats in either this body or the other body questioning the President's patriotism or his commitment.
to national security. We took those differences to be honest differences. The President owes us and the other body the same courtesy.

We all have obligations of conscience, and we should respect them, including the President of the United States. And we have other obligations. Because this House has not met those obligations, we are here today with this continuing resolution. Because at this point, this House, if we can quit blaming each other for a change, this House, not the other body, this House has passed only five appropriation bills out of the 13 required to finish our business.

This chart demonstrates what has happened every year since 1988. The worst record during that period from 1988 through today, the worst record we had was in 1991 when the House only finished 10 of its 13 appropriation bills, and in 1, 2, 3, 4, 5, 6, 7, 8 years, the House finished all of them. This year, the average has been an almost virtual nothing of its appropriations work, and that is not the fault of the chairman of the Committee on Appropriations, and it is not the fault of the Committee on Appropriations.

It is because there is an internal war in the majority party caucus over one bill, the Labor, Health and Education bill. The conservatives in the majority party caucus do not want to see any appropriation bill brought to this floor until the President’s education budget is brought to this floor and passed at the President’s level, and the Republican leadership’s dilemma is that they know they do not have the votes for that in their own caucus. Because the moderates in the Republican caucus know that the President’s budget is inadequate, and they do not want to go home having stopped the progress we have made on education over the last few years.

Now, I will say one thing for the President. He has had a lot of photo ops. He has been in elementary schools more often than students over the past year, posing for political holy pictures with children promoting the No Child Left Behind Education Act. We passed that with large bipartisan majorities, and what that act said is that we are going to reform the education programs and then we are going to fund them. Well, we reformed them. Where is the funding? Before that act passed, this President for a 5-year period, virtually doubled support for public education. But what budget did the President send down to match his talk as he goes from schoolroom to schoolroom, trying to create the image that he is putting education first in this country? The President’s education budget brings to a screeching halt the progress we have made in expanding education funding over the past 5 years. He puts a financial freeze on education when we look at it on a per-student basis. That is not what my constituents tell me they want when I go home.

The reason this continuing resolution is here is for only one reason: it is because the majority party does not want to have to vote on the President’s education budget before the election. The only group that appears to want to vote on it are the conservatives in the Republican caucus. But the rest of the caucus does not want to have to vote on the President’s budget because they know they would vote no, because the President’s rhetoric is not matched by his actions.

Mr. Speaker, the President is not putting education first in this country. He does not have the votes for that. He has not had the votes for that. And that is the funding? Before that act passed, this President promised to do. I say to him, Mr. President, I want to see the record in education that has been to help those really in need of help. Let us take Title I. It is up 62 percent from 1996, from $6.37 billion to $10.35 billion, a good record for this body that we can all take pride in.

We have tripled the funding for Federal reading programs from $300 million to more than $900 million. This is what the President promised to do. I think he deserves credit for that.

We have increased the Federal teacher quality funds by 33 percent to help States and local communities to train, recruit, and retain quality public school teachers. I might say here, and this is almost a crusade with me, we should get a good teacher in every classroom, because if we ask any group, do you have some teacher that in your life has made a difference, without hesitation hands go up. That is what it is so important that we can continue the programs that will help the States and local communities to get good teachers in every classroom. No child will be left behind if they have a quality teacher.

Pell grants. This is help to those from the low income to have an opportunity to get an additional education; it might be in a trade school, it might be in a college, a university, or whatever. We have increased them by 62 percent, from $2,470 to $4,000, in fiscal year 2002. That is a credit to this Congress, that it has recognized the importance of helping these young people.

Head Start, another program to help those who are less advantaged, we have increased it by 83 percent over the past 6 years. I think it is a record to be proud of.

We have increased Federal aid to America’s Historically Black Colleges and Universities by 144 percent.
Mr. Speaker, we want to continue this record because I think education is the most important responsibility, in cooperation with the States and the local communities. We need to have an educated population if we want to compete of tomorrow. If we want to give the people of this Nation an opportunity, the young people.

I would also like to point to the record in Health and Human Services. We have supported dislocated worker employment assistance. It grew by $271 million, or 27 percent, again, helping those who need a helping hand.

Community health centers. They delivered needed medical services to over 10 million patients in fiscal year 2001, and it grew by 77 percent since fiscal year 1996.

Support for the Centers for Disease Control. We suddenly discovered after 9/11 how important the Centers for Disease Control were to this Nation, and they deal with infectious diseases. They cop that stand between us and the incursion of many different types of diseases in our society. It grew by 400 percent; again, something that helps people all across the Nation.

The Centers for Disease Control’s chronic disease prevention, it has grown by 178 percent.

Medical research by the National Institutes of Health: a commitment was made about 4 years ago or 5 years ago, that we would double their budget. We have kept that commitment, and we would hope to do that again in this fiscal year. They have supported nearly 37,000 research projects. That is important. That is important to people, because out of those research projects will come cures, will come ways of helping individuals.

If Members could sit in the committee that the gentleman from Wisconsin (Mr. ObeY) and myself are responsible for and listen to the testimony, they would realize how important it is to the people of this Nation, and parents with children that need help; people with Alzheimer’s, Parkinson’s, you name it, we have heard from them in our subcommittee, and we have tried to help by enhancing the programs of the National Institutes of Health and many others.

All I want to say to this body is that I think we have an excellent record we have done on a budget basis over the past several years, and particularly since the Republicans have had the responsibility for the programs as the majority party.

But in fairness, I also want to say, we have had help in getting this record accomplished. We would hope that we will have the same kind of help. We know that we cannot do everything, that the resources are not as great as they might have been 3 or 4 years ago.

I think one of the things we need to do is take a look at all the money we have pored into these programs and say, is it being spent wisely? Is it getting results? Is it producing value re-
ceived to the taxpayers of this Nation? What we are trying to do in crafting these appropriations bills is to ensure that we are getting value received; that we are using the money wisely on behalf of the people who need the help. That is, after all, what these programs help all Americans. They are not limited to any single group. Illness strikes at all types in our socioeconomic strata.

Education is important, and we have had a real problem in making sure these programs serve the people. I think that is a record we can point to with pride, and I hope that we can work out appropriation bills that will continue this record of great service to the American people from every walk of life.

Under Republican leadership, America’s proven education programs have thrived. In the past several years, Republicans have:

- Increased Title I aid to disadvantaged students by 62 percent—$37 billion in FY 96 to $103.35 billion in FY 02.
- Increased special education grants to states (Part B of the Individuals with Disabilities Education Act, or IDEA) by 224 percent—an increase far larger than under Democrat controlled Congresses.
- Increased federal aid to America’s Historically Black Colleges and Universities, Historically Black Graduate Institutions, and Hispanic-Serving Institutions by 144 percent—from a combined total of $114 million in FY 96 to $341 million in FY 02.
- Supported for dislocated worker re-employment assistance of $271 million, to nearly $1.4 billion since FY96.
- Support for Community Health Centers, which delivered needed medical services to an estimated 10.5 million patients in FY2001, grew $587 million, or 77 percent, since FY96 helping CHCs serve 2.4 million more patients over six years.
- Support for CDC’s chronic disease prevention activities, in areas such as breast and cervical cancer prevention, diabetes control, and cardiovascular disease prevention, grew $479 million, or 178 percent, since FY96.
- Support for medical research administered by the National Institutes of Health grew $11.5 billion, or 97 percent since FY96. NIH estimates that they will support nearly 37,000 research/project grants in FY2002, over 11,000 more than they supported in FY96.
- Support for Head Start grew nearly $3 billion, or 83 percent, since FY96. During FY2002, the Administration estimates Head Start will serve over 100,000 more children aged 3 to 4 then it did in FY96; and

Support for helping low income Americans in meeting their heating costs through the LIHEAP program grew $1.1 billion, or 120 percent since FY96.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman is certainly a friend of education and health care; but I would simply point out that the issue is not what we have done last year, it is what we are going to do next year.

We still have not seen a bill produced by the majority, and the President’s budget for health care cuts back $1.4 billion in crucial health care programs outside of NIH. It essentially fails to provide anywhere near the support level that is needed for programs that help low-income students, for programs that help the handicapped, and for children who need help with second languages.

So there are going to be thousands of children, indeed, left behind by the President’s budget, and we would like to correct that, but we cannot get the Republican majority to bring a bill to the floor.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding time to me.

Mr. Speaker, I would like to respond to my friend, the gentleman from Ohio (Mr. REGULA). I agree with the gentleman from Wisconsin (Mr. OBEY), the gentleman from Ohio (Mr. REGULA) is a friend of education. Also, he is the chairman of our subcommittee.

What I think most of us feel on the Committee on Appropriations is our Republican colleagues on the Committee on Appropriations want positive investment in our country. They are not the problem, but the leadership of the Republican Party is the problem. From the Chairman of the Committee on the Budget this year and in past years is the problem.

Now, let me tell my friend, the gentleman from Ohio, about education. The irony is that my friend, the gentleman from Ohio, would stand and say, look what we have done since 1995 on education. What we have done on education is, under the leadership of Bill Clinton, he said, I am not going to sign bills that underfund education.

I would hope that the Members of the Committee on Appropriations would read them to the Members so in the future the Members will know, because I know if the gentleman knew this, he probably would not have made this representation.

The Republican bill offered to this House in 1996 was $5 billion under the President’s request. That did not end up that way.

In 1997, the Republican bill offered $2.8 billion under the President.

In 1998, it was a Presidential election year. The Republican leadership, wanting to elect its own, came in with a bipartisan bill. It was just $191 million under the President. However, in the
next year; it was over half a billion dollars over the President.

In the year 2000, the Republican bill was $1.4 billion under the President; and in 2001, it was $2.9 billion under the President. By the way, the bills were not all Democrat. We passed a budget in the House. That did not happen in the Senate. We passed a budget in the House. The gentleman knows, we passed a budget in this Congress and as the gentleman of the Committee on Appropriations, and more importantly, the House committee, in passing appropriation bills.

Over those 15 years, we have averaged 12.2 bills passed before the end of the fiscal year. That is a 93 percent average. That is an A. This year, we are at 38 percent. That is a miserable failure; zero percent of those who call the appropriations committee or the gentleman from Ohio (Mr. REGULA) or the gentleman from California (Mr. LEWIS) or others who chair the appropriations subcommittees, but it is a failure of responsibility of the chairmen of the Appropriations or the gentleman from Wisconsin (Mr. OBEY), I will call to account those who put us in a position of being unable to debate the priorities of this Nation on this floor.

This month of September we have not one appropriation bill on this floor, notwithstanding the fact that September 30 is at the door. I, like the gentleman from Wisconsin (Mr. OBEY), will vote for this continuing resolution, but like the gentleman from Wisconsin (Mr. OBEY), I will call to account those who put us in a position of being unable to debate the priorities of this Nation on this floor.

Like the gentleman from Wisconsin (Mr. OBEY), I do not want my patriotism or concern for the security of this Nation to be called into question by this President, who is our leader and who ought to bring us together, not drive us apart.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I wanted to respond to my dear friend, the gentleman from Maryland (Mr. HOYER). I want to assure him that however politically engaged this gentleman is, this afternoon, that none of my speakers will attack any of the gentleman’s leadership. We have a lot of disagreements with the gentleman’s leadership, but we are not going to raise those today. We have a strong leadership on our side and they have accomplished a lot in this Congress. We did hit a couple of roadblocks dealing with the budget process, and as the gentleman knows, we passed a budget. Whether the gentleman likes it or not, we passed a budget in the House. That did not happen in the other body.

Secondly, I wanted to point out to my friend that the only two bills that we have had a request from the other body to go to conference on are the defense bill and the military construction bill. We did get into conference aggressively coming to closure on those two bills. With the exception of Legislative Branch appropriation, we have not had a request from the other body to go to conference on any other appropriation bills, including the ones that we have already sent down there to the Senate.

Mr. Speaker, I yield 6 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM). Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to remind my colleagues that in 1994, with a Democratic-controlled House, they passed an education bill $3 billion below President Clinton’s request.

I have heard tonight, well, let us stop pointing fingers. That is all I have heard from the other side, every single speaker, pointing fingers. You know why? Well, the President took control of the issue. He focused on the issue of education. And education spending is not everything.

I would like to submit this for the record. It is what Secretary Paige showed, the number of increases in education spending but yet test scores have baselined. The education plan is more than just spending. We have increased education dollars, but we have also given the States the flexibility to move those dollars around where parents and teachers can make those decisions.

My colleagues on the other side want line items and every item increased so that they can mandate exactly what is done in the States, the paperwork increases, the mandates, the union bureaucracy. And the President said no, I want to give the States the flexibility where parents and teachers can make those decisions.

They also demand accountability. And with the accountability he also gave the superintendents and the State legislatures the ability to move money around, not line item it and mandate it. A hundred thousand teachers? We need teachers, yes. But we also put money in for the quality of education and teachers.

We have passed prescription drugs, and tax relief for working families. My colleagues say it is just for the rich, it is an election year. It is sad to watch the things that are going on tonight because as a group we have done so many things. This President is a caring President. I want to tell you, he has brought credibility, he has brought character to the White House that was not there before. Is it not nice to see a President who can actually look at his wife and say, I love you and mean it?

The economy is growing. It is growing by 3 percent. Alan Greenspan said that the economy has grown by 1.5 percent because of tax relief for working families. My colleagues say it is just for the rich, it is an election year.

Inflation is low. Interest is low. But yet there is not confidence in the market. The Senate has not passed the Employee Protection Act that would protect them from cases of Enron and WorldCom. We need to pass that bill, to bring that confidence up. And that has not been passed by the other body; and I think that is wrong.

POINT OF ORDER

Mr. FRANK. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman will state his point of order.
Mr. FRANK. Mr. Speaker, the speaker has just violated the rules of the House with regard to references to the Senate.

The SPEAKER pro tempore. The characterizing of the Senate inaction is not in order.

Mr. CUNNINGHAM. Mr. Speaker, they have not passed the bill that should be in order. They have not passed the bill.

POINT OF ORDER

Mr. FRANK. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRANK. Mr. Speaker, the point of order raised was not when the gentleman referred to inaction, but when the gentleman characterized that inaction and gave a value judgment to the inaction.

The SPEAKER pro tempore. The gentleman is correct. The gentleman in the well will proceed in order.

Mr. CUNNINGHAM. I do not believe I have done that, Mr. Speaker. But I will tell you, an energy bill is critical, but the Senate has not passed that bill. An economic stimulus package is critical which helps us in education. The Senate has not passed that bill.

The Senate according to the Carville memo did not pass its budget, not mine. Why? Because they can offer a trillion dollars in a prescription drugs program.

Mr. OBEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. PELOSI), the distinguished whip.

Ms. PELOSI. Mr. Speaker, I thank the distinguished ranking member for yielding me time and for his great leadership on behalf of America’s families. I also commend the distinguished Chair of the Committee on Appropriations for his leadership and the two of them for bringing this continuing resolution to the floor.

The sense of it all, though, is that the continuing resolution is needed at all. For the weeks that we have come back here from the summer August break, this Congress has been in session from Tuesday night until Thursday afternoon. We have had plenty of time if we had worked a full week to do the people’s business, to pass the appropriations bills that are our responsibility by the end of this fiscal year and the start of the next one.

Instead, we are here passing a short-term continuing resolution, and there will be another one and there will be another one because this House has ignored the needs of the American people, the needs for a growing economy, for prescription drug benefits, for access to quality health care, for educating our children; and that is the point on which I would like to focus.

I rise on behalf of America’s children who deserve every opportunity we can give them and on behalf of their parents who deserve to know just where the parties really stand as opposed to what they say they stand for.

Nowhere is the contrast between Republican rhetoric and Republican reality so stark as in the oft-repeated promise to “leave no child behind.” The reality is that the Republicans want to cut our investment in education. What is authorized in the Leave No Child Behind Act, $7 billion less of an investment than that which was promised by the President. Despite countless Presidential photo ops and despite the little red school house built outside the Department of Education at massive tax payer expense, I might add, the reality is that the Republican Party plans to leave millions of children behind.

The fact is that the Republicans do not want to debate appropriations bills because they do not want the public to see that their education budget would underfund the No Child Left Behind Act, which the President heralded as his great achievement by $7.2 billion, and that is the President’s recommendation. That is why some Republicans will hold up this bill from coming to the floor.

The President’s education budget stops in its tracks 6 years of steady progress in Federal support to local schools. Instead, the investments in education under this budget are down to less than 1 percent. How are we going to grow our economy if we will not grow our investment in public education?

There is no tax cut you can name or benefit or credit or anything that you could name that grows the economy more than investing in education. There is nothing that is more dynamic to the budget than investing in education. We are not only doing a disservice to the children, we are doing a disservice to the taxpayers. There is nothing you can name that would grow the economy more than investing in education.

All the research, Mr. Speaker, tells us that children do better in smaller classes and, indeed, they do better in smaller schools. And yet the Republicans want to freeze funding for these cost-effective programs. What they have in the budget is enough to provide, for example, after-school programs to only 8 percent of the 15.2 million low-income children who could benefit from them.

I refer you to this chart. Look at this. We are gaining in enlightenment. We are giving after-school guidance for children. It is good for their education. It is good for their health. It is good for their future. And here we come into this budget and take a downturn in after-school programs for America’s children. This is really, really a tragedy. We cannot turn our backs on the millions of children who just last year we were promising to rescue, and we cannot turn our backs on the economic future of our great country. When we take this action, we should think of America’s children. We should think of growing our economy. There is a commonality of interest.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the very distinguished gentleman from Ohio (Mr. BOEHNER), who is the chairman of the Committee on Education and the Workforce and who authored the outstanding education bill last year, H.R. 1.

Mr. BOEHNER. Mr. Speaker, the rhetoric we are hearing from our friends across the aisle is not about children. This is all about politics. And when it comes to education funding or anything of that kind of detail, our Demo-
neighborhoods who need our help. Democrats have not offered a budget to help low-income school districts or kids. They have no budget. They have no plan and they have no solution.

Now, here is something else to consider. This chart shows, under the first 2 years of President Bush’s Presidency, we will have seen greater increases in title I funding than in the previous 7 years combined.

The last 2 years of the President’s budget, last year and this year, are greater increases than in the last 7 years of the previous President.

Let us not forget about teachers, the people responsible for our kids in the classroom. For teachers, the Republican budget provides $2.85 billion, matching the historic increase the President signed into law last year. This is a 38 percent increase over the last Clinton budget.

Democrats have offered no budget to help America’s schoolteachers. They have no budget and they have no solution. Despite the twin challenges of war and economic recovery, the President’s budget this year expands funding for all of our educational priorities, and so I say to my friends on the other side, if they have got a better plan, why do they not show us?

Mr. OBERRY, Mr. Chairman, I yield myself 2 minutes. The previous speaker leaves a false impression in the House because he does not have a budget and they have no solution. Despite the twin challenges of war and economic recovery, the President’s budget this year expands funding for all of our educational priorities, and so I say to my friends on the other side, if they have got a better plan, why do they not show us?

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Bringing the bill out. That is what we are asking.

As for the Senate being responsible, the fact is that 90 percent of the domestic budget has not passed, and that is no fault of the Senate. You have only produced one bill this year, the smallest of the domestic appropriation bills and only the Treasury-Post Office bill has become law.

We are going to have a conference on Defense next week but you have abdicated your responsibility. The gentleman from Texas, I say to you, you have abdicated the responsibility as majority party whip to do the Nation’s business. You say you have completed the Nation’s business. Why is it that 90 percent of the domestic appropriations are being bottled up by the majority party? Why do you not do your duty and bring those bills to the floor?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to remind Members to please avoid improper references to the Senate.

Mr. OBEY. Mr. Speaker, how much time is remaining? The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) has 29 1/2 minutes, and the gentleman from Florida (Mr. Young) has 29 minutes.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. Shaw), my distinguished colleague.

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

One item that has been lost in this debate, which is truly important, I think one of the proudest moments in this Congress was in 1996, when we passed a welfare reform bill. As a result of that, almost 3 million kids are now out of poverty. Millions more who otherwise would be on the welfare roll are on the payroll, and the welfare rolls in this country have been reduced by 60 percent, and that is why at the same time we are reducing poverty among kids. What greater accomplishment have we had?

That bill runs out the end of this month.

□ 1815

There will be no welfare and welfare reform can be forgotten. The $4.8 billion in child care will no longer be there. Four months ago on the floor of this House, we passed the extension. The Senate has not.

Part of this bill is to extend welfare reform so that the checks will continue to go out. The child care will continue to be there, the job training will still be there, and all of the good things that we passed in 1996 will remain with us. But it is going to be absolutely vital that we pass this continuing resolution because this would extend it for 3 months into next year. That is extremely important because if we do not, there will be no checks going out.

The prediction that was made in 1996 when we passed welfare reform would come true and the poverty levels would skyrocket, the job training and all of the good that we did would be undone. The Senate has not acted on this most important piece of legislation, and it is one that I think all Members in one degree or another can support.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Jackson).

Mr. JACKSON of Illinois. Mr. Speaker, I intend to support the continuing resolution that is before us today, but I must say that the administration’s budget proposal in this body has not lived up to the commitment that we made to leave no child behind.

Yesterday, the Census Bureau stated that the proportion of Americans living in poverty rose significantly last year, increasing for the first time in 8 years. At the same time, the bureau said that the income of middle-class households fell for the first time since the last recession ended, in 1991. In the last 2 years, 2 million more Americans have lost their jobs, and economic growth is at an anemic 1 percent, the slowest growth pace since 1982.

What has been the House’s answer to this? Tax cuts, the ability to find another $100–200 billion for a possible war in Iraq.

A strong economy depends on a strong workforce, and that means educating all Americans and providing them with skills they need to be productive workers. Some Members of Congress seem to have a single focus, and that is keeping America strong abroad. But we have a dual responsibility, keeping America strong abroad and also keeping America strong at home. Education is the key to keeping America strong at home, and that is why I think we must finish our work here before we adjourn for the elections in November.

The title I program provides funds for school districts to help disadvantaged children obtain a high-quality education, and at a minimum, to meet the State standards. With the added funds, it will allow them to meet the challenging academic achievement standards established by the States.

The President’s request for title I education is $4.56 billion below the $16 billion he supported and Congress supported in the Leave No Child Behind Act. The administration refused to request funding for title I school improvements funds, and last year over 6,000 schools, 10 percent across the country, were identified as failing to meet the State standards. With the additional funds promised by the Leave No Child Behind Act, school districts would have been able to hire an additional 92,000 title I teachers.
Mr. Speaker, I urge Members to support this continuing resolution, but let us also focus on the need to fully fund education for our children.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON), a member of the Committee on Appropriations.

Mr. KINGSTON. Mr. Speaker, there is a sinkhole on the Capitol, not over here, but over there, a giant growing sinkhole. It is filled with every single item that is wholly hazardous to judicial nominees, to presidential appointees, and to presidential ideas or initiatives in general. It is very hazardous to legislation, hazardous to the budget. In fact, the only thing that seems to get through this giant sinkhole are memos from Barbara Streisand, but that is an improvement, I would say, over contacting Eleanor Roosevelt, as we were doing a couple of years ago to get our instructions.

Now, this sinkhole ate up the budget this year to expire. Where there is no budget, every day is Christmas.

I have four wonderful children. I love my children, like just every Democrat and Republican here. We all love our kids and have all sorts of ideas about how I ought to be spending my money. For birthdays, they want a golf cart, Jetskis, CDs, and if they are older, they want a car. None of them quite wanted the pair of tennis shoes that I bought and wrapped so carefully. The reality is, they think I am a U.S. Senator, and every day is Christmas when we do not have a budget.

So here we are forced to pass a continuing resolution because we cannot deal with some group that does not have a budget. That is bad enough, but here are some other bills. We are at war. As I speak, as we sit here, we have troops in Afghanistan and Pakistan and all over the Middle East, and yet we cannot get a homeland security bill passed. We cannot get faith-based initiatives passed. The House has passed 51 bills which have not been passed by the other body. There is no bipartisan Patient Protection Act. There is no human cloning bill. I can understand that because some of them do not want more of us, and a lot of us do not want more of them. Maybe that one I can understand their hesitancy.

They have not passed Personal Responsibility and Family Protection Act, or welfare reform. We had 14 million people on welfare 3 years ago.

The SPEAKER pro tempore.

The SPEAKER pro tempore. The Chair reminds Members not to characterize action or inaction in the other body.

Mr. OBERRY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, it is not the other body that has prevented this House from bringing out the Labor-Health and Education budget, or the Science budget, or the Housing or Transportation budget. It is the fact that the majority caucus wrapped around the axle because they cannot get an agreement on any approach that will bring those bills to the floor and allow them to pass. That is what the problem is.

Now, we have an effort to shift the blame somewhere, I guess, that is the normal course of action around here. That does not make it right.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I love this House of Representatives, but I do not like us when we do not do our work. The reason we are here tonight is because we have not done our work. We have not passed the 13 appropriation bills in this body, and we would have all of the complaints in the world had we done our work. We have not done our work.

It is amazing the speeches I have heard defending the budget and the fact that we do not have a budget on this side of the aisle. Some of us did. We were denied an opportunity to debate it. If the House had a budget, we did not like the budget that has now given us $317 billion of new deficits.

Conveniently, the majority whip came on the floor and talked about 10 years ago. What about right now? We are here tonight discussing a budget that has given us $317 billion of new deficits and will spend Social Security trust funds for the next 10 years. Forget the last 40, worry about today. That is when we can do something about it. The other side is in the majority.

Mr. Speaker, I have no quarrel with the gentleman from Florida (Chairman YOUNG) or the gentleman from Iowa (Chairman NUSSELE), but the gentleman from Texas who stood down here a moment ago and made that eloquent speech of untruths reminded me of the Will Rogers quote when he said, "It ain't people's ignorance that bothers me so much that ain't so is the problem."

Mr. Speaker, we talk about the Reagan tax cuts. I was here. For the 12 years of Reagan-Bush, never did the big spending Democrats in Congress, other than Republicans spend more than Presidents Reagan and Bush asked us to spend; and yet, conveniently, the rhetoric tonight says it was us that did it.

Conveniently, we are letting some of the real budget rules that allowed us to do some good things on budget expire September 30, and the same leadership that comes down and makes the speeches they made a moment ago are directly responsible for allowing pay-go to expire, to allow discretionary caps to expire.

Let me make one relevant point tonight when we talk about spending, as so many Members on the other side of the aisle keep talking about Democratic spending, the difference between the House and the Senate; the difference we are talking about on the appropriators is $9 billion. That is the difference that has kept the leadership from bringing the 13 appropriation bills to the floor of the House and letting the Appropriators pass them.

We should at least keep the spending caps in. I feel kind of ridiculous arguing for that because we have ignored them all year, but if the other side had enforced the pay-go rules, we would have never passed the budget because we could not have passed the budget. Increasing the debt ceiling for our country was passed at midnight because the majority party did not want to stand up and acknowledge the fact that as they talk about paying down the debt and deficit elimination, the debt is going up. We are going to have to do it again, under the budget that everybody over on the other side is bragging about. If they are bragging about it, spend the appropriation bills out and pass them; but do not keep complaining about somebody else’s fault. This House has not done its work. It is not the minority party’s fault; it is the majority party’s fault.

As a child, I always knew that if I started criticizing some trait about one of my playmates, Mother would soon be talking about your own plunk. Her shorthand reference was to the scripture which warns against pointing out the “speck” in someone else’s eye when there was a huge “plank” in your own. I think we could use my mother on the House floor these days. There has been a lot of rhetoric about what the other chamber has not done but not much attention to some of our own shortcomings right here in the House. One of those shortcomings—the failure to pass budget enforcement rules near and dear to my heart and, after years of defending those rules, I cannot remain silent today.
Circumstances have changed dramatically since we passed the Republican budget last year. The projections turned out to be too optimisitic, revenues are much lower than expected, and we face tremendous new expenses for homeland defense and the war on terrorism and possibly a war with Iraq.

Now that those projections have proven to be nothing more than empty hopes and unfulfilled promises, some of us think we should look honestly at our economic situation rather than pretending to view the world through faulty rose colored glasses. But the leadership on the other side of the aisle refuses to consider any adjustments to their budget policies.

At the very least, we should take action to make sure we don’t dig the deficit hole still deeper. Instead, the Republican leadership is allowing the existing budget enforcement rules which impose some fiscal discipline on Congress to expire.

Over the previous decade, the budget enforcement rules were one of the more successful tools for establishing fiscal discipline and helping bring about budget surpluses. These rules set limits on the amount of discretionary spending Congress can approve and prohibit legislation which would have increased the deficit.

When these rules expire five days from now, there will be no limits on spending and no restrictions on the ability of Congress to pass legislation which makes the deficit even worse.

Considering spending bills during a lame duck session after the election without any rules imposing budget discipline is a recipe for runaway spending. But unless we renew our budget discipline, Congress will continue to find ways to pass legislation which puts still more red ink on the national ledger.

Alternatively, enforceable spending limits would serve as a fiscal guardrail to help keep our spending within our means.

Federal Reserve Board Chairman Alan Greenspan told the Budget Committee that “Failing to preserve (budget enforcement rules) could be a grave mistake . . . the bottom line is that if we do not preserve the budget rules and reaffirm our commitment to fiscal responsibility, years of hard effort could be squandered.

Leo Panetta, who served as Chairman of the House Budget Committee and Bill Frenzel, the former Ranking Republican on the Budget Committee wrote a letter on behalf of the Committee for a Responsible Federal Budget warning that: “The excesses of Budget Enforcement Act constraints on spending and revenue legislation is an open invitation to fiscal irresponsibility and an embarrassment to all that care about the budget process. . . . To let them expire now would send a terrible signal to an economy that is struggling for stability.”

The Concord Coalition has warned that allowing budget enforcement rules to expire is “an open invitation to fiscal chaos.” Despite these warnings about the harm that could be done to the federal budget and the economy if we allow these rules to expire, the House leadership has resisted any efforts to extend these rules.

In my book, that’s a mighty big “plank” in the House leadership’s platform!

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I urge support for this continuing resolution so that America’s critical welfare re-form programs and support for low-income families can continue. Welfare re-form should not be forced to be part of this discussion today. The House passed a welfare reform extension bill this May. Fourteen of my colleagues across the aisle joined us in approving that bill. Now more than 4 months later, the Senate has still failed to act.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman from Wisconsin who has been such a magnificent articulator on this issue, but he said the problem is a fight between the moderates and the conservatives of the Republican Party. He knows that is a fight between Mike Tyson and Grandma Moses. The moderates in the Republican Party are lucky if they get the water cooler turned on. It is not the moderates. Here is the problem: it is the Republicans who voted for a tax cut, and then we had Afghanistan and Iraq and homeland security, and we now have demands on expenditures that are greater than the revenues.

We will pay tribute to those like the majority whip in his fervor and venom against government spending. He is prepared to bring government spending down to the level that would be consistent with the tax cut, but the other Republicans want to have it both ways. They want to vote for a tax cut, which reduces government revenue; and then they do not want to vote for a bill that would bring down the spending. So that is why we do not have the bill. We do not have the Health and Human Services Appropriations bill or the HUD bill or the HED bill. Do the Members cannot admit how much they have made it impossible for the government to spend responsibly.

Mr. HERGER. Mr. Speaker, if we were not for this continuing resolution, the greatly successful 1996 welfare reforms would expire just 4 days from now. What makes this prolonged lack of action so frustrating is that welfare re-form has helped literally millions of families achieve remarkable progress in the last 6 years.

The 1996 welfare reforms were the greatest social policy change success story in history. The success is indisputable. Nearly 3 million children have left poverty. Employment by mothers most likely to go on welfare rose by 40 percent. Welfare caseloads fell by 9 million.

The continuing resolution before us extends for 3 months the important welfare programs depended upon by millions of low-income families. We cannot allow the Senate to use these families to pay for their record $300 billion increase in discretionary spending Congress can approve and then refuse to vote for a bill that would stop runaway spending. As the former Ranking Republican on the Budget Committee and the former chairman of the Subcommittee on Labor, Health and Human Services and Education, who passed legislation which imposed some fiscal discipline on Congress, it is time to be very practical in our view of this legislation.

The SPEAKER pro tempore. The gentleman from California is recognized for 3 minutes.

Mr. FRANK. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I am going to confess our inferiority. We have been here denouncing this continuing resolution, but we are not as good at denouncing continuing resolutions as some of the great figures in America’s past.

I was here when Ronald Reagan really talked about a continuing resolution, when he said Congress should not send another one of these, when he bemoaned the continuing resolutions that stacked up. The fact is that Congress had passed none of the appropriations bills. That was Ronald Reagan holding up that continuing resolution as an example of government at its worst. How the Republican Party has fallen away from that ideal. Ronald Reagan was the one who said let us get the people’s work done in time to avoid a foot race with Santa Claus. Santa Claus has gained on the Republican Party since he left.

The Republican Party is usually quite respectful of Ronald Reagan. Why this great falling away from the teachings of President Reagan to which he was so obedient? Do the Members know why? I hope Members listened to the speech from the chairman of the Subcommittee on Labor, Health and Human Services and Education, who made it impossible for the government to spend responsibly.

Let us be clear. There is no rule, there is no principle, there is no Constitution, there is nothing that interferes with this House bringing something up, and Members can violate the rules by denouncing the Senate all they want. It is irrelevant to anything except their disrespect for the rules of this House. It has nothing to do with whether or not we vote on bills. Indeed, I would argue that the ills we face because they ultimately boast about passing some appropriations bills and then complain that some mystical force has kept them from passing the others.

The fact is that rarely, rarely do I have to dissent even mildly from the gentleman from Wisconsin who has been such a magnificent articulator on this issue, but he said the problem is a fight between the moderates and the conservatives of the Republican Party. He knows that is a fight between Mike Tyson and Grandma Moses. The moderates in the Republican Party are lucky if they get the water cooler turned on. It is not the moderates. Here is the problem: it is the Republicans who voted for a tax cut, and then we had Afghanistan and Iraq and homeland security, and we now have demands on expenditures that are greater than the revenues.

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Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETTENSOHN), who is a member of the Committee on Appropriations.

Mr. PETTENSOHN of Pennsylvania. Mr. Speaker, I yield to the gentleman for yielding me this time, and I welcome him to share a few words in this debate tonight.

I have dealt with budgets all my life. For 26 years I operated a business and I had a budget. In the family I had a budget. For 19 years I was in State government and we passed a budget every year. For 10 years I was a State appropriator; so I was very involved in the State budget. It had taken me a while since my 6 years in Washington to figure out our process because it is a lot more complicated, and I have often wondered why it was so complicated. But we all know the basic principles, that the House has to pass a budget and the Senate has to pass a budget, and they have to reconcile that. And the process that I have learned to understand is the budget first is the framework of how much money we should spend. The Senate figures out how much money, and then we reconcile that figure and then we are all working off of the same spending plan. We only argue about how we spend it.

This is the first time that process has fallen apart. Our friends have not played in this process and so they have no rules of conduct, they have no limits on spending, so their proposals from the figures I have when you use the budget gimmicks of advance spending is up to close to $15 billion above the President’s proposal.

We have had the war on terrorism; we had the rebuilding of our defenses. We have a stellar record of spending in the last few years for education which increased education spending 132 percent.

It seems to me it is the year that we both need to have a proposal that limits spending because we have a war to fight, we have our defenses to rebuild; and if we do not have some rules of spending, we will have deficits as long as we are around. The debate is about do we want to have deficits forever, or do we want to have deficits temporarily and get past deficit spending back to budgets that are surprises? That is the big argument. If the other body plays by no rules and we have no limits on spending, so their proposals from the figures I have when you use the budget gimmicks of advance spending is up to close to $15 billion above the President's proposal.

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When? When will this Republican caucus get the courage and the pride to do the Nation’s business?

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, the audacity of the House Republican leadership in blocking the entire Federal budget in order to spare the President embarrassment and to cater to their most extreme right-wing members goes beyond anything I have ever experienced in this body. I was amazed in July when the House leadership caved in to the Conservative Action Team, putting the Labor-HHS-Education appropriations bill in jeopardy. I wondered, how are Republican leaders going to pass this bill within the President’s inadequate numbers? How would we get past this bill to the rest of the appropriations agenda before the new fiscal year began?

But it never occurred to me that Republican leaders would simply disregard the start of the new fiscal year and let the entire budget come crashing down, all to appease the most right-wing members of their caucus.

It is equally amazing that the President and his OMB Director are complicit in this strategy, apparently, or perhaps it is a lack of strategy, for in fact this is irresponsibility and dereliction of duty on a monumental scale.

What I never dreamed would happen has indeed happened, and the continuing resolution we are voting on today, covering not one bill or two, but the entire discretionary budget, is a monument to an extraordinary failure of leadership and responsibility.

This institutional breakdown is fraught with real consequences for real people. The No Child Left Behind Act, for example, was signed by the President amid great bipartisan fanfare in January. Yet, just weeks later, the President submitted a fiscal year 2003 budget that would cut the very education programs authorized in the new law. A continuing resolution will stall education funding and negate the effects of No Child Left Behind while the Bush budget would actually take us backwards.

The Bush budget reduces by 82 percent promised support for needy schools and students. Instead of increasing funding to help school districts meet the mandate that all teachers be highly qualified, the President’s budget cuts teacher quality funding by 4 percent, eliminating training for 18,000 teachers.

Instead of providing increased support for after school centers to increase enrollment by 580,000, the President’s budget would actually force 50,000 children to be eliminated from programs that provide safe places to learn after school.

Mr. Speaker, the House leadership has allowed a willful group of right-wingers to hold the entire budget process to their ideological agenda. This budgetary breakdown is a disaster, not only for this institution, but for the people we represent.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. Escobar).

Ms. ESCOBAR of Texas. Mr. Speaker, I have been sitting on the floor now for hours, as many of you have as well. I do not relish saying the following, but I think that we have hit one of our all-time lows.

This is the House of Representatives, the place of the people. We are the political descendants, every single one of us, of this man here, George Washington, of Lafayette, of Lincoln, of Kennedy, of Reagan, of all of them. What has come of us, that we have descended into this?

I say to the gentleman from Florida (Mr. YOUNG), I respect you. You are a gentleman. You are a decent man. I respect the Members who have to deal with this nonsense daily by the only wing that dominates you party now, the right wing.

But the right wing is the wrong wing. The people of this country deserve to have their voice heard by us. That is why we ran. We said to our respective constituents, whether they were Republicans, Democrats, Independents, we want to fulfill the dream of America for you.

Now, whether you agree or disagree about the approaches, we have the collective responsibility to bring the vehicles to this floor, and a continuing resolution means that there has been a collapse, a collapse of leadership.

I do not want to think of what Lincoln would say about the Republican whip and what he said. He is too busy hating Democrats. What about loving our country and moving an agenda forward?

I feel ashamed tonight. I feel ashamed that there is not enough leadership. Where is the Speaker? Where is the majority leader? We can do better than this. We can do better than this, and the American people will hold us accountable. This is a sad evening. I will vote for the resolution, so the government does not shut down.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, I am so honored to serve in the people’s House and have taken such great pride in my service here over the past 12 years. I will soon be casting my last vote in this historic Chamber, and I remember casting my first 12 years ago on whether or not to go to war in the Persian Gulf. Members sat attentive, listening, applauding one another, Republican and Democrat. Whether or not they agreed with the Member’s position, there was respect and comity.

Now, when this Chamber should be united, when that respect should be at an all time high, when we should be productive and working into the night, we are questioning one another’s patriotism and calling one another names.

What is happening to this great institution? That night we went into the night, we worked for days. We did the people’s work. Now we work 2 days. We cannot bring a housing bill to the floor; we cannot bring an education bill to the floor, we cannot have the great debates that this body has had over centuries.

Why can we not rise to the occasion, rather than putting this body into reverse and going backwards at one of the most momentous and important times in our Nation’s history? Let us pull together and work together and bring glory and hope to what Abraham Lincoln said was the last best hope of mankind. Let us come together and work together in a bipartisan way and do the people’s work.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me time.

Mr. Speaker, I have to tell you, I am reminded of the coffee shop breakfast table where I ate breakfast every morning for 26 years. We have a motto, “Often wrong, but never in doubt.”

It is a sad day, as previous speakers, have mentioned. We are Americans. We can do better. We can do anything. All we have to do is work together and do the right thing.

The facts are we have got more people in poverty now than we had 2 years ago. Middle income has gone down. The debt is $440 billion greater. The American people continue to get robbed every time they go to the drugstore by the criminal acts of the prescription drug manufacturers.

We have spent all of the Social Security and Medicare trust funds. It is all gone. We collected that money with a promise to the American people that we would take it and it would be there to pay your benefits when your time came. It is all gone. Those are facts. You cannot hide from them. You cannot make up something else. You cannot blame it on somebody else. That is the way it is.

It is also a fact, as I said in the beginning, that we are Americans. We can do better. This is a shameful event in the history of this House.

Mr. OBEY. Mr. Speaker, I yield ½ minutes to the gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Speaker, I thank the gentleman from Wisconsin for allowing me the time to speak on this very important subject. We are asked to vote on a continuing resolution to continue something implies that which is in progress to reach a reasonable end, a resolve, I remember my father saying, “Don’t start a job you can’t finish.” Well, that is what we are doing, if we are not careful. It is my hope that we can come together and resolve the differences before we throw it in the bowl.
I am not a quitter. I want to do everything possible that we can to come to a positive end.

Circumstances have changed drastically since we enacted the budget last year, the Republican budget last year. The numbers turned out to be too optimistic. Revenues are much lower than expected, and we face tremendous new expenses for homeland defense and the war on terrorism and a possible war with Iraq.

But I have got to acknowledge that there is a problem. New situations call for new solutions. Do not point fingers at each other and say it will work itself out. We came here to do a job, and that job is representing our people to the rest of the world, to debate the very differences that we have. Maybe it is about unions in one respect and business in another, but that is why we came here. Can we not as reasonable people reach a solution on behalf of the American people, to whom we are going to ask in a few days to pay more taxes to solve the problem for the American people, but that is why we came here. Can we?

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, after 6 years on the Committee on the Budget, I am amazed at the debate I have heard tonight. We have got a powerful committee that is in the 6 years I have been on that committee, I have seen Members of the other party in this body and the other body waive the paygo rules, waive the spending cap rules to accomplish whatever goal they want. But tonight, tonight we hear, because we do not have a budget resolution of both bodies, we cannot bring appropriations bills to the House floor.

Why is it that we can have an ongoing conference on the defense bill and the military bill but, somehow, we cannot even bring the Labor-HHS-Education bill to the floor, we cannot bring the science bill or the housing bill or any of those other bills, because the majority whip tells us, if we bring them to the floor, then we will have to go to conference and then the spending will go up?

But we are already in conference on other bills. It seems rather illogical to this Member that if we can do it on some bills, why cannot we do it on other bills.

What it is, Mr. Speaker, is that there is a small cadre in the House on the Republican side that are the last to realize that the economic program of this administration has been a failure, and rather than leaving us in surplus, we have wiped out over $5 trillion in surplus value, including that in the Social Security and Medicare Trust Funds. This is just one of those that we have to realize it. The American people and the majority in the House and the Senate long ago did. We ought to bring those bills to the floor and finish our work for the American people.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Connecticut (Ms. DELAUNO).

Ms. DELAUNO. Mr. Speaker, it is irresponsible for Congress to put off doing the people’s business; it is irresponsible for the Republican majority to continue to ignore America’s unmet needs, particularly our commitment to educating our children. From Head Start teachers to pay, America’s children are being shortchanged in a very severe manner by President Bush’s budget and the majority’s inaction. Mr. Speaker, 18,000 fewer teachers being trained, 33,000 fewer children in after-school programs, zero funds for repairing our crumbling schools and only 9 months ago, we heard so much talk about how Congress and the administration would leave no child behind.

But now, with the smallest proposed increase in education since 1996, the President and the Republican majority are doing just that. Leaving our children behind is what happens when we underfund education by $7.2 billion.

This year programs funded under the No Child Left Behind Act are cut by $87 million, no additional resources to purchase books, to invest in teacher training. The President does take a lot of photographs with young children. When it comes to early childhood education, training and literacy programs, the rhetoric, but not much else. Nowhere in the Bush budget does the Republican rhetoric ring more hollow. They have cut the Even Start program, supporting projects that combine early childhood education for children and literacy training for parents. By gutting Even Start, we leave whole families behind.

What we need to do is to stop taking pictures with children and provide them with the tools they need in order that they might succeed.

Mr. OBEY. Mr. Speaker, I yield myself the remaining 1½ minutes.

Mr. Speaker, under the rules of the House, the gentleman from Florida has the right to close; he still has a lot of time remaining; and so much may be said which we will not be able to respond to. But having said that, let me simply say that I think every Member of the House wishes the chairman well. He is being honored tonight for his leadership on bone marrow research, and I hope we do not come up too late here so that he can receive that award. I want to congratulate him for it. I think all of us in the House know...
that he deserves it, and his mother will be proud.

Let me also say, Mr. Speaker, we are simply here because this resolution will extend the ability of the government to function until October 4. It is then my understanding that our debate will move to us to October 11; and then after that, evidently, an effort will be made to move us past the election. I want the majority leadership to understand, I will not vote for a resolution that moves us past the election. I will work, as we all need to do, to get the education bill, to pass the science bill, to pass the other Appropriations bills that this House has a duty to pass. We should not sneak out of town before we have done our duty, especially our duty by the children of America.

Mr. Speaker, I urge the House leadership to take the time afforded by this resolution to face up to their responsibilities to bring the Labor-Health-Education bill to the floor, as well as the other bills, so that the House can finish its business.

When we finish our business, then we can squawk about the other body. Until then, we have no claim in the world to do so.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, anyone observing our debate this evening would think that we were engaged in some sort of theatrical activity and that this bill on the floor was going to affect the politics of this body.

The fact of the matter is, we are only talking about a 4-day CR, and I would suggest that maybe some of us should save our ammunition for next week, because we are going to have to go through this all again next week, probably.

As far as it being a CR, someone might get the idea that it is a sinister development or a sneaky procedure. Except for the year that the gentleman from Wisconsin chaired the Committee on Appropriations, we have used CRs around here forever. So this is not something that is new; it has been used before, a number of times, many times.

But as strange as it might seem from all of this debate, this really is a bipartisan bill that we are debating here tonight. It is bipartisan because the gentleman from Wisconsin has worked closely with us to fashion this bill, and I do not want to get in trouble here with the rules of the House, but as well as the chairman of the Committee on Appropriations in the other body, and the ranking Republican member of the other body, we all worked together to fashion this nonpartisan, bipartisan continuing resolution.

As I said, we are probably going to have to do this again next week, so if my colleagues have some other ammunition that they want to throw out, save it. Although I think everything that needs to be said has probably already been said, but let us see.

Mr. CUNNINGHAM, Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman very, very briefly, because I have said there would be no other speakers.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding.

I would tell my friend from Wisconsin, if I was fighting in combat, I would want to fight against the best MiG driver there is; and as a political opponent and a friend, I think we have fought against one of the best MiG drivers here on the floor tonight, and I salute the gentleman.

I would just like to answer, and I do not think they will be controversial, two questions real quick. The gentleman from Texas (Mr. EDWARDS) asked how can we increase the debt. If you inherit a debt that is $5 trillion and you nearly spend $1 billion a day on just the interest of the debt, it grows. You can pay down $490 billion; if it grows over the years, over $1 billion a day, it is going to get bigger.

The other thing I would say is to my friend, the gentleman from California (Mr. GEORGE MILLER), whom I am very proud of as colleague in California, who supported this education bill, but I would ask him to take a look at what Governor Gray Davis is doing to education in California where every single program is one of the most important jobs of Congress. If the Department of Education is only $490 billion, it means that states with sizeable Hispanic student populations like Texas, California, New
York and Florida will lose almost $2 billion in funding for Title I. California, Texas, New York, Arizona, New Mexico and Illinois will lose $63 million just under the English Language Acquisition Grants program. This program serves 550,000 limited-English proficient and immigrant children. These are the children who need the most help, yet we will be denying them access to education they deserve.

If we pass a long-term CR will be freezing funding for TRIO, GEAR-UP, Migrant Education, drop-out prevention, and the College Assistance Migrant Program. All of these programs heavily impact Hispanic students nationwide. A long-term CR will leave thousands of Hispanic children behind.

We do not need a long-term continuing resolution, we need a fully funded education appropriations bill for all the children in this country. I urge my colleagues to take heed.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker pro tempore announced that the Senate has passed by Mr. Monahan, one of its clerks, an amendment to the amendment of the Senate to the enrollment of the bill H.R. 1646.

The Speaker pro tempore. Evidently a quorum is not present.

The question was taken; and the yeas appeared to have it.

The SPEAKER pro tempore (Mr. Young of Florida). Mr. Speaker,

The joint resolution was ordered to the House.

The SPEAKER pro tempore (Mr. Young of Florida). Mr. Speaker, I take this further message from the Senate from votes this afternoon so that I could be in New York to keep an appointment at my daughter’s school. Were I here I would have voted as follows:

Rollecall Vote 420, on a Motion to Recommit H.R. 4600 with Instructions: “yea”; rollecall Vote 422, on Passing the Conference Report to Accompany H.R. 2215: “yea” and rollecall Vote 423, on Passing H.J. Res. 111: “yea”.

Another further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 483 Concurrent Resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1466.

The message also announced, that the Senate agrees to the report of the committee on conference on the disagreeing votes of the Senate on the amendments to the Senate bill to the fraud. An Act to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes.

LEGISLATIVE PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I take this time for the purposes of inquiring

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about the schedule of next week, and I yield to the distinguished gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentlewoman for yielding.

I am pleased to announce that the House has completed its legislative business for the week. The House will next meet for legislative business on Tuesday, October 1 at 10:30 a.m. for morning hour and 12 o'clock noon for legislative business. The majority leader will announce a number of measures under suspension of the rules, a list of which will be distributed to the Members' offices tomorrow. Recorded votes on Tuesday will be postponed until 6:30 p.m.

For Wednesday and the balance of the week, the majority leader has scheduled the following measures for consideration in the House:

H. Res. 559, a House resolution on expedited special elections;

H. Res. 558, expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage penalty tax relief permanent; a continuing resolution; and S. 2690, the Pledge of Allegiance Reaffirmation Act; and Conferences are also working hard.

We are having resolutions and hoping to see them on the floor. That is why I am disappointed that these are being held up because an element, not the entire Republican Party wants to cut $7 billion out of education and you do not have the votes to do that; so you cannot bring it to the floor and therefore we are engaged in this business of one CR after another.

I thank the gentleman for the information.

Ms. PELOSI. I certainly hope so. And I hope that we can work together to pass more of these appropriations bills. We have taken them up in committee. Some of them are ready. In fact, the distinguished chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs last Thursday on the floor asked when his bill would be taken up. We are working on transportation, but we passed District of Columbia today. So many of these bills are ripe for coming to the floor. That is why I am disappointed that we have the conference reports on defense and the conference reports on foreign operations, export financing and related programs will definitely be votes on Friday.

Ms. PELOSI. What is the leader's latest prediction on when the House will adjourn before the election? Closer to October 11 or 18? And when do you believe we will return for a lame duck session?

Mr. BLUNT. I am certainly in no position to predict that. I think there is a discussion with the leaders on both sides of the building. We want to adjourn on October 18, in conjunction with our friends on the other side of the building. I would anticipate that the continuing resolution next week will go through the 11th; and hopefully by the time we get into that period, we will have either resolved some of the appropriations concerns, or we will be looking at the time between now and the election in a more definite way.

Ms. PELOSI. I certainly hope so. And I hope that we can work together to pass more of these appropriations bills. We have taken them up in committee. Some of them are ready. In fact, the distinguished chairman of the Subcommittee on Africa, Global Health, and Human Rights, Representative COX of California and Representative FROST of Texas; and the previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. PUTNAM). Is there objection to the request of the gentleman from California?

There was no objection.
it adjourn to meet at 10:30 a.m. on Tuesday, October 1, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR THE COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT ON H.R. 4561, FEDERAL AGENCY PROTECTION OF PRIVACY ACT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 4561.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT ON H.R. 4125, FEDERAL COURTS IMPROVEMENT ACT OF 2002

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 4125.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT ON H.R. 5428, CONSERVATION AND WATER DEVELOPMENT PROJECTS AUTHORIZATION

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 5428.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

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APPOINTMENT OF HON. JAMES V. HANSEN TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH OCTOBER 1, 2002

The SPEAKER pro tempore (Mr. PUTNAM) laid before the House the following communication from the Speaker:

WASHINGTON, DC, September 26, 2002,

I hereby appoint the Honorable James V. Hansen or, if not available to perform this duty, the House Clerk, to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 1, 2002.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

STANDING FIRM FOR THE PEOPLE OF SUDAN

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Mr. Speaker, for nearly 20 years, the people of Sudan have been engaged in a civil war. The government in Khartoum, known as the National Islamic Front, has been ruthlessly terrorizing its own citizens in the south, killing and starving those who are not Muslim Arabs.

This religious hatred has evolved into genocide. Christians in southern Sudan are the subject of ethnic cleansing. Over 2 million people have died. Over 4 million people have been displaced. The war in Sudan is clearly one of good versus evil.

If this persecution was not bad enough, southern Sudan is a source of enormous oil reserves, causing the National Islamic Front to literally cut a path of black Christians in order to reap the benefits of this commodity.

Sudan is perhaps the most prominent purveyor of slavery, an atrocity of uncountable proportions. Women and children are subjected to extreme cruelty. Men are removed from their families and given Arabic names before experiencing the worst of conditions.

There have been many prayers and vigils for the people of Sudan recently. I commend those who speak up for the persecuted and enslaved in the south of Sudan, and I urge the Sudanese government to resume peace talks with the Sudan People's Liberation Army. We must have peace, Mr. Speaker, in Sudan.

SPECIAL ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

WELCOMING MEMBERS OF RUSSIAN DUMA AND FEDERATION COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise tonight to pay tribute to what has been a very exciting week. Members of this body and the other body played host to four separate groups of our colleagues from the Russian Duma and Federation Council. These groups were involved in intense discussions involving cooperation on antiterrorism, on projects involving health care, energy, programs to improve the conditions of the people of Russia and the relationship between the U.S.

In fact, the gentleman from New Jersey (Mr. SAXTON) chaired one delegation, and we had Members of other groups in the Congress chair other delegations. The gentleman from New Jersey (Mr. SMITH) was hosting a group that was focusing on veterans benefits and ways to construct housing support for the military in Russia. It has been a good week.

Mr. Speaker, on Tuesday a group of our colleagues, 12 to be exact, from both sides of the aisle played host to one of the rising young companies in Russia, an energy company known as ATERA and their CEO Igor Makarov. The members of the bipartisan delegation that traveled to Russia last May were hosted by ATERA as they had been hosted in previous delegations by the officials from GASFIRM, LUKoil and other major energy companies, including Yukos and our friend Mikhail Korotko.
In response to the hospitality shown to us in Moscow, we agreed to host a dinner here in Washington for Makarov and the ATERA Corporation, and so on Tuesday evening in the Library of Congress almost 30 Members of this body from both parties and members of the other parties and diplomats from eight nations and approximately 18 members of the Russian Duma and Federation Council. In addition, we were joined by officials from various Federal agencies.

At this enterprising dinner, as we heard the progress of this young energy company, 10 years old, that now has an annual revenue approximating $5 billion.

There were also some serious discussions because, as with other merging companies in Russia, there have been allegations and accusations, as there have been with other energy companies and other banks and institutions in Russia, that the companies are perhaps not transparent, perhaps may have items that we have to confront and ask them about.

In this case, what was absolutely refreshing was that the chairman of the board of the ATERA, Igor Marakov, a young and outstanding American businessman from Russia, openly in front of our entire assembled group offered to provide to us the complete list of all of the owners of this privately held corporation. That in itself was significant because any company, and a very powerful man, and I think very arrogant man quite frankly, gave us the list at my request of not just the owners of the company but also the members and employees of their Esau who, in fact, were revealed to us so that we now know the true ownership of this corporation as they move to be accepted on the New York Stock Exchange.

Secondarily, because of concerns that we raised with them and concerns that we have had with other companies that are emerging in Russia, they announced that they have agreed to form an outside independent board that would monitor and review the board activities of ATERA, and they announced that they are accepting, and I have provided them suggestions for prominent Americans that can reflect upon the kind of work that this company is engaged in, and in fact, they had meetings this week with former CIA Director Jim Woolsey and former Energy Secretary and former CNO of the Navy Jim Watkins and, in fact, took their constructive suggestions and have agreed to put into place an aggressive effort to open up the inside operations of the company, the kinds of activities they are involved in, the extent of their operations and how to have a formal process for these kinds of official that will, in fact, come from America and perhaps other companies to bring true transparency to their company.

For these things I applaud ATERA. I am not saying that we have answered all the questions, but I am saying that we have made a good start, and this company deserves to be given credit for coming to Washington and telling the elected officials of this body that it wants to be open, it wants to engage with American energy corporations. It wants to have the bipartisan look of not just Members of Congress and our agencies but also of those individuals in America that can help them chart a new course, a course of integrity, honesty and openness as they grow into a company that hopefully will become a true multinational organization.

In closing, I want to make a point with this one paragraph. He says, "Dear Religious Leader, another election year is upon us, and questions about the appropriate role of houses of worship and clergy in the political process have arisen."

The second paragraph is the one that I really find intriguing quite frankly
D.C., Pastor Walter Fauntroy testified on behalf of this legislation at the same time Dr. D. James Kennedy testified, and the attorney who helped me draft this legislation, Mr. Kobe May of the American Center for Law and Justice, has been in the courts many times trying to protect the first amendment rights of people throughout this country. What I want to share is a response. There were two representatives from the Internal Revenue Service, one is Mr. Hopkins, and one is Mr. Miller. I found the whole testimony intriguing, quite frankly, but just a couple of points I would like to bring forward. In response to a question the gentleman from Georgia (Mr. Lewis) asked Mr. Miller, "As a rule, do you monitor the activities of churches during the political season?"

Mr. Miller with the Internal Revenue Service, said he does monitor churches. We are limited in how we do that by reason of section 7611 and because of lack of information in the area because there is no annual filing.

Mr. Speaker, this is the point that I want to make. In the last part of his answer, Mr. Miller to the gentleman from Georgia (Mr. Lewis), and this is what I wanted to stress, "So our monitoring is mostly receipt of information from third parties who are looking." Mr. Speaker, third parties that are looking to see what the church and the pastor in that church is talking about and if he is violating the 501(c)(3) status, the Johnson amendment, then he is in violation and can lose the 501(c)(3) status. For those who talk about the separation of church and state, if they really are concerned, why do they want the government dictating what a minister might not be able to say within the church?

Let me go just a little bit further. The gentleman from Illinois (Mr. Weller) also is on that committee, and I want to read a couple of his questions and the answer he gives a better example I think to my colleagues here in the House. The gentleman from Illinois (Mr. Weller) asked a question of Mr. Miller of the Internal Revenue Service. Can the from the pulpit and not be in violation of the tax status that candidate is pro life or candidate why is pro choice? The answer was that becomes more problematic can speak to issues of the take but to the extent they start tying it to particular candidate and I think that where this election, it begins to look more and more like either opposition to a particular candidate or favoring a particular candidate. Basically he is saying they are in violation of the Johnson amendment. The preacher cannot do that. That is exactly what he is saying that.

Let me go to another question that the gentleman from Illinois (Mr. Weller) asked. He asked, "and would the Crane and Jones legislation clarify the law to allow for that type of state?'

Mr. Miller answers, "I believe so." That is what this is all about. I think if this country is to remain morally strong, our spiritual leaders throughout the country should have the right to talk about these issues. They had it prior to 1954, and I urge you to support this candidate. Is that allowable under current law?" Mr. Hopkins with the Internal Revenue Service, 'No, that would not be allowable under current law. That would clearly be political campaign activity, and it would be under the two bills that are the specific subject of the hearing.' So it would be protected under my bill and the Crane bill.

Some people might say why should the churches get involved in political campaigns. Let me give another example. Down in my district during the year 2000, Jerry Shield, a friend of mine who is Catholic, went to his priest, Father Rudy at St. Paul’s in New Bern, North Carolina, the Sunday before the Tuesday and he said to Father Rudy, Would you please say to the congregation George Bush is pro-life. The priest said, I cannot do that. It will violate the tax status of this church. Let me give an example on the other side. There is a wonderful former Member of Congress, Floyd Flake, whom all of us love. He is Dr. Floyd Flake, a minister, and has a very large church in New York City. Mr. Flake had Al Gore completed his speech. Reverend Flake went up and did exactly the same thing that the gentleman from Illinois (Mr. Weller) asked the IRS about. He stood up there and said I believe this is the right man to lead this Nation. He is trying to say that he believes as a spiritual man that he believed Al Gore is the right man. He got a letter of reprimand from the Internal Revenue Service; a third party turned him in. Mr. Speaker, today democracy rings in this great country. Our men and women are serving this Nation across the sea to guarantee that freedom, and we have a responsibility to not let Lyndon Johnson get by with an amendment that was not even debated. That is what happened. So after 48 years, 48 years of the Federal Government influencing and threatening what can be said in our churches and synagogues, now we have an opportunity to pass legislation to get this done and date started. I want to thank even some who do not agree with me on this issue, thank you for allowing, after 48 years, for this
Mr. Speaker, I would like to read that because this man, Dr. Davidson, is an expert on this issue. I wanted to cite that for the record tonight.

Mr. Speaker, I always close when I come to the floor in a certain way. I spoke this morning and I close this way everywhere I go, because I think we are so fortunate to have our men and women in uniform who are protecting our national security and also protecting the first amendment, the second amendment and all the guarantees that we have in the Constitution. I close this way by saying, I ask God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform. I ask God to please bless the men and women who serve in the United States House and the United States Senate, I ask God to please bless the President of the United States so that he might make the right decisions for this Nation.

Mr. Speaker, I close this way by saying, three times, I ask God: Please God, please God, please God, continue to bless America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GREEN of Texas (at the request of Mr. GEPHARDT) for today after 6:30 p.m. and the balance of the week on account of official business.

Mr. THOMPSON of California (at the request of Mr. GEPHARDT) for today until noon on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders herebefore entered, was granted to:

The following Members (at the request of Mr. KUCINICH) to revise and extend their remarks and include extraneous material:

Ms. NORTON, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.

The following Members (at the request of Mr. WELDON of Pennsylvania) to revise and extend their remarks and include extraneous material:

Mr. WELDON of Pennsylvania, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 640. An act to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.
SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 238. An act to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

S. 1175. An act to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton’s Headquarters, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on September 25, 2002 he presented to the President of the United States, for his approval, the following bills:

H.R. 486. For the relief of Barbara Makuch.
H.R. 487. For the relief of Eugene Makuch.
H.R. 4968. To establish the Irish Peach Processing Cultural and Training Program.

ADJOURNMENT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o’clock and 17 minutes p.m.), under its previous order, the House adjourned until Monday, September 30, 2002, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

9368. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule — Cypermethrin; Pesticide Tolerance [OPP-2002-0229; FRL-7199-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9373. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule — Clopyralid; Pesticide Tolerance [OPP-2002-0235; FRL-7198-4] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9374. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule — Triclopyr; Pesticide Tolerance [OPP-2002-0199; FRL-7200-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9375. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule — Spinosad; Pesticide Tolerance [OPP-2002-0195; FRL-7199-5] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9376. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule — Pyraclostrobin; Pesticide Tolerance [OPP-2002-0225; FRL-7200-7] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9377. A letter from the Comptroller, Department of Defense, transmitting notification regarding authority to use the Multiyear Procurement program for the DDG-51 program; to the Committee on Armed Services.

9378. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Edwin P. Smith, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9379. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Frederic E. McFarren, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9380. A letter from the Secretary, Department of Defense, transmitting notification that the President approved changes to the 2002 Unified Command Plan; to the Committee on Armed Services.

9381. A letter from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting the Department’s final rule — Exception Payment Standard to Offset Increase in Utility Costs in the Home Choice Voucher Program [DOCKET NO. FR 4672-F-02 (RIN: 2577-AC34)] received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9382. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule — Approval and Promotion of Implementation Plans; Louisiana; Control of Emissions of Nitrogen Oxides in the Baton Rouge Oxygen Nonattainment Area [LA-62-1-7571; FRL-7384-1] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9383. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule — Approval and Promotion of Air Quality State Implementation Plans (SIP); Louisiana: Substitute Contingency Measures [LA-61-1-7564; FRL-7382-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9384. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department’s proposed Letter(s) of Offer and Acceptance (LOA) to North Atlantic Treaty Organization (NATO) Control Agency for Defense articles and services (Transmittal No. 02-61), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9385. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department’s proposed Letter(s) of Offer and Acceptance (LOA) to Germany for defense articles and services (Transmittal No. 02-60), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9386. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department’s proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services (Transmittal No. 02-59), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9387. A letter from the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting the Department’s final rule — Missile Technology Production Equipment and Facilities [DOCKET NO. BIS-2206-2002 (RIN: 0910-AC51)] received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9388. A letter from the Acting White House Legal Advisor, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9389. A letter from the Chairman, Postal Rate Commission, transmitting a report submitted in accordance with the Inspector General Act of 1978, as amended, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9390. A letter from the Assistant Secretary — Land and Minerals Management, Department of the Interior, transmitting the Department’s final rule — Outer Continental Shelf Oil and Gas Leasing-Clarifying Amendments (RIN: 1019-AH44) received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9391. A letter from the Assistant Secretary — Health and Human Services, transmitting the Department’s final rule — Indian Child Protection and Family Violence Prevention Act Amendments (RIN: 0917-AA02) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9392. A letter from the Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and

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Atmospheric Administration, transmitting the Administration’s final rule — Announcement of Funding Opportunity to Submit Proposals for the Coastal Ecosystem Research Project [Docket No. 00020263-2004-03 I.D. 014520K] received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Resources.

9379. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule — Fisheries of the Exclusive Economic Zone off Alaska; “Other Rockfish” in the Bering Sea Subarea of the Bering Sea and Aleutian Island areas [Docket No. 011218304-1304-01; I.D. 090302A] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Resources.

9380. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 6 — Closure of the Commercial Fishery from Horse Mountain to the Columbia River Mouth; and the Central Regulatory Area of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 070802B] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Resources.

9402. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department’s final rule — Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F and 914 F Series Reciprocating Engines: Correction [Docket No. 2002-NE-08-AD; Amendment 39-12832; AD 2002-16-26] (I.D. 091002A) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

9408. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaskan [Docket No. 011218304-1304-01; I.D. 070802B] received September 21, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Resources.

9409. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 070802B] received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Resources.

9410. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule — Alaska High-Salinity Water Fisheries; Inseason Action 6 — Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 011218304-1304-01; I.D. 080302K] received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Resources.

9411. A letter from the Staff Director, United States Commission On Civil Rights, transmitting the list of state advisory committees recently rechartered by the Commission; to the Committee on Judiciary.

9403. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department’s final rule — Airworthiness Directives; Turbomeca S.A. MAK 11-121 piston engines and US Army Turboprop Engines [Docket No. 2001-NE-42-AD; Amendment 39-12882; AD 2002-19-02] (I.D. 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.


9405. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department’s final rule — Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F and 914 F Series Reciprocating Engines: Correction [Docket No. 2002-NE-08-AD; Amendment 39-12832; AD 2002-16-26] (I.D. 091002A) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

9406. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department’s final rule — Airworthiness Directives; Eurocopter France Model Spey 506-14A, 555-15, 555-15H, 555-15N, and 555-15P Turbojet Engines [Docket No. 2001-NE-14-AD; Amendment 39-12877; AD 2002-18-05] (I.D. 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

9407. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department’s final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100P SUD, 747-200B, 747-300, 747SP, and 747SR Series Airplanes [Docket No. 2001-NE-34-AD; Amendment 39-12878; AD 2002-18-04] (I.D. 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

9408. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department’s final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB 135 and ERJ 135 Series Airplanes [Docket No. 2002-NE-16-AD; Amendment 39-12845; AD 2002-16-06] (I.D. 2120-AA64) received September 29, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

9409. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department’s final rule — Procedures for Compensation of Air Carriers [Docket OST-2001-10885] (RIN: 2105-AO06) received September 22, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

9410. A letter from the Director of the Committee on Commerce, U.S. House of Representatives, transmitting the Committee’s Annual Report on the Federal Workforce for Fiscal Year 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Government Reform and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 5469. A bill to suspend for a period of 6 months the determination of the Librarian of Congress of July 8, 2002, relating to rates and terms for the digital performance of sound recordings and ephemeral recordings; to the Committee on the Judiciary.

H.R. 5740. A bill to establish the HARPS-specific PCF effects level, expressed in a certain Memorandum of Agreement issued by the Environmental Protection Agency and the Corps of Engineers, as a final criterion; to the Committee on Transportation and Infrastructure.

By Mr. TOWNS (for himself, Mr. PHIELS, Mr. PETERSON of Minnesota, Mr. LIPINSKI, Mrs. CHRISTENSEN, Mr. MILLARD, Mr. SHOWS, Mr. DEUTSCH, Mr. THOMPSON of Mississippi, Mr. BISHOP, Mr. CARSON of Indiana, Mr. SANDLIN, Mr. NORTON, and Mr. LUCAS of Kentucky):

H.R. 5471. A bill to extend Federal funding for operation of State high risk health insurance pools; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER:

H.R. 5472. A bill to extend for 6 months the period for which clause 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. WELDON of Pennsylvania (for himself, Mr. HOYER, Mr. ANDREWS, Mr. CASTLE, Mr. BAXTER of Maryland, Mr. BORSKI, Mr. BRADY of Pennsylvania, Mr. CARIDN, Mr. COYNE, Mr. CUMMINS, Mr. DOYLE, Mr. EIHRLICH, Mr. ENGLISH, Mr. FATTAR, Mr. FERGUSON, Mr. FREILINGHUSYN, Mr. GERSAX, Mr. GILKREST, Mr. GREENWOOD, Ms. HART, Mr. HORPFFEL, Mr. HOLDEN, Mr. KARSKY, Mr. LOBONDO, Mr. MASCARA, Mr. MENENDEZ, Mrs. MORELLA, Mr. MURTHA, Mr. PALLONE, Mr. PASCHEL, Mr. PAYNE, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. PLATTS, Mr. ROTHMAN, Mrs. ROUKEMA, Mr. SAXTON, Mr. SHERWOOD, Mr. SMITH, Mr. SOUTHE, Mr. TOOMBY, and Mr. WYNN):

H.R. 5473. A bill to grant the consent of the Congress to the SMART Research and Development Organization;” to the Committee on Science, and in addition to the Committee on Transportation and Infrastructure.
By Mr. KLECZKA (for himself and Mr. RYAN of Wisconsin):

H.R. 5474. A bill to amend the Gramm-Leach-Bliley Act to further protect customers whose identities are stolen from the financial institution, and for other purposes; to the Committee on Financial Services.

By Mr. ACERVO-VILÁ (for himself, Mr. FOLEY, Mr. LAMPSON, Mr. GUTIERREZ, Ms. VELAZQUEZ, Mr. SERRANO, Mr. FALZONE, Mr. CRASER, Mr. DUNCAN, and Mr. WICKER):

H.R. 5475. A bill to require that certain procedures are followed in Federal buildings when a child is reported missing; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself and Mr. SAXTON):

H.R. 5476. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of Korean immigration into the United States; to the Committee on Financial Services.

By Ms. BALDWIN (for herself, Mr. F OLEY, Mr. L AMPSON, Mr. C RAMER, Ms. SAWYER, Mr. W YNN, Mr. G REEN of Mississippi, Ms. M CNAUGHLAN, Mr. TAYLOR of Mississippi (for himself, Mr. RUSH, Mr. TERRY, Mr. ENGEL, Mr. TAYLOR of Georgia, Mr. G REEN of Texas, Mr. W ELDON of Pennsylvania, Mr. MCDERMOTT, Mr. K LECZKA, Mr. N EAL of Massachusetts, Mr. M CNULTY, Mrs. THURMAN, Mr. G EORGE MILLER of California, and Ms. S LAUGHTER):

H.R. 5490. A bill to provide economic security for America and America’s workers; to the Committee on Ways and Means.

By Ms. S LAUGHTER:

H.R. 5492. A bill to require the Federal Government to give a preference in awarding any contract for a construction project to entities participating in qualified apprenticeship programs; to the Committee on Government Reform.

By Mr. STRICKLAND (for himself, Mr. WHITFIELD, Mr. U DALL of Colorado, Mr. TAUCHNITZ, Ms. S LAUGHTER, Mr. C LEMENT, Mr. U DALL of New Mexico, Mr. L UCAS of Kentucky, and Mr. K ANJORSKI):

H.R. 5493. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals, to establish an independent board, and for other purposes; to the Committee on Energy and Commerce.

By Mr. K LECZKA (for himself, Mr. P AULISON of Connecticut, Mr. T OM DAVIS of Virginia, and Mr. L EWS of Kentucky):

H.R. 5495. A bill to enhance homeland security by encouraging the development of regional comprehensive emergency preparedness and coordination plans; to the Committee on Transportation and Infrastructure.

By Mr. LEACH:

H.R. 5496. A bill to amend the Public Health Service Act to establish a tobacco community reinvestment program, and for other purposes; to the Committee on Education and the Workforce.

By Mr. M ORAN of Kansas (for himself, Mr. O SBOONE, and Mr. T HUNE):

H.R. 5497. A bill to eliminate the authority to reduce rent payments under the conservation reserve program in calendar year 2002 by reason of harvesting of forage or grazing on land in an emergency caused by a drought, to the Committee on Agriculture.

By Mr. M ORAN of Kansas (for himself, Mr. R YUN of Kansas, Mr. T IAHRT, and Mr. M OORE):

H.R. 5498. A bill to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer, and for other purposes; to the Committee on Resources.

By Mr. P AULLONE:

H.R. 5499. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with authority to recall foods and to allow the Secretary to order the destruction or disposition of food in a manner that would not cause injury to persons; to the Committee on Energy and Commerce.

By Mr. P AULLONE:

H.R. 5500. A bill to amend the Great Plains Historic Grasslands Wilderness Area, and for other purposes; to the Committee on Resources.

By Mr. P AULLONE:

H.R. 5501. A bill to ensure the coordination and integration of Indian tribes in the National Homeland Security strategy and to establish an Office of Tribal Homeland Security in the Department of Homeland Security, and for other purposes; to the Committee on Resources.

By Mr. R ANGE I (for himself, Mr. G EHRHARDT, and Mr. B ALANGER):

H.R. 5502. A bill to direct the Secretary of Homeland Security to commission a study on implementing the radiation detection and reporting network that was authorized by the Nuclear Nonproliferation Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. S IOS and Mr. M CGOVERN:

H.R. 5507. A bill to authorize assistance for employment, training, and placement programs for American Samoa through eligible nongovernmental organizations in American Samoa; to the Committee on Commerce, Science, and Transportation.

By Ms. W OOLSEY (for herself, Ms. S OLEIS, and Mr. M CGOVERN):

H.R. 5509. A bill to authorize assistance to the Government of the People’s Republic of Cuba for the purpose of promoting the economic development of the Cuban people and the human rights of the Cuban people; to the Committee on Appropriations.
H.R. 2215: to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself, Mr. FLAKE, Mr. MOORE of Florida, Mr. HOSTETTLER, and Mr. WELDON of Florida):

H. Con. Res. 489. Concurrent resolution expressing the sense of the Congress that the United States should not rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO); to the Committee on International Relations.

By Mr. GRAVES:

H. Con. Res. 490. Concurrent resolution to express the sense of Congress concerning the United States and its dependence on foreign sources of oil; to the Committee on Energy and Commerce.

By Mr. LA TOURETTE:

H. Con. Res. 491. Concurrent resolution supporting the goals and ideals of National Safety Forces Appreciation Week; to the Committee on Government Reform.

By Mr. COX (for himself, Mr. F ROST, Mr. S CHIFF, Mr. R EYES, Mr. R ODRIGUEZ, Mr. S ANDLIN, Mr. G ONZALEZ, Mr. G REEN of Texas, Mr. G RICHARDSON, Mr. W HITT, Mr. G RACE, Mr. B ACKER, Mr. M ARTINO, Mr. D REIER, Mr. C HABOT, Mr. N EY, Mr. D AVIES of Virginia, Mr. K YORI, Mr. L IBERMAN, Mr. F LAKE, Mr. L ATOURETTE, Mr. L EO, Mr. P RIMAC, Mr. M CDERMOTT, Mr. S HADID, Mr. N ORTON, Ms. R IVEL, Ms. Z ULLO, Mr. E VANS, Mr. J ACKSON of Illinois, Mr. G RAY, Mr. S ABO, Mr. G ILCHREST, and Mr. S HERIFF).

H. Res. 561. A resolution recognizing the contributions of Hispanic-serving institutions; to the Committee on Education and the Workforce.

By Mr. Pallone:

H. Res. 562. A resolution expressing the sense of the House of Representatives regarding the importance of bone marrow donation, honoring the National Marrow Donor Program for its work in increasing bone marrow donations, and supporting National Marrow Awareness Month, and for other purposes; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. ISRAEL and Mr. HAYES.
H.R. 389: Mr. P AUL.
H.R. 709: Mr. G RAY, Mr. MOORE of Georgia, Mr. B ACKER, Mr. M ARTINO, Mr. D REIER, Mr. C HABOT, Mr. N EY, Mr. D AVIES of Virginia, Mr. K YORI, Mr. L IBERMAN, Mr. F LAKE, Mr. L ATOURETTE, Mr. L EO, Mr. P RIMAC, Mr. M CDERMOTT, Mr. S HADID, Mr. N ORTON, Ms. R IVEL, Ms. Z ULLO, Mr. E VANS, Mr. J ACKSON of Illinois, Mr. G RAY, Mr. S ABO, Mr. G ILCHREST, and Mr. S HERIFF.
H.R. 826: Mr. D AVIES of Florida and Ms. P RYCE of Ohio.
H.R. 827: Mr. H OUGHTON.
H.R. 902: Mr. McCARTHY of Missouri.
H.R. 951: Mr. V ITTER.
H.R. 952: Mr. A LLEN and Ms. H ART.
H.R. 967: Ms. P RYCE of Missouri.
H.R. 975: Mr. V ITTLE.
H.R. 1035: Mr. ISSA.
H.R. 1200: Mr. D ELAHUNT.
H.R. 1296: Ms. M CDERMOTT.
H.R. 1368: Mr. S HAYS, Mr. P ASCRELL, Mr. L IPSKY, Mr. J ACKSON of Illinois, Mr. B ACKER, Mr. M ARTINO, Mr. D REIER, Mr. C HABOT, Mr. N EY, Mr. D AVIES of Virginia, Mr. K YORI, Mr. L IBERMAN, Mr. F LAKE, Mr. L ATOURETTE, Mr. L EO, Mr. P RIMAC, Mr. M CDERMOTT, Mr. S HADID, Mr. N ORTON, Ms. R IVEL, Ms. Z ULLO, Mr. E VANS, Mr. J ACKSON of Illinois, Mr. G RAY, Mr. S ABO, Mr. G ILCHREST, and Mr. S HERIFF.
of North Carolina, Mr. Rahall, Mr. Forbes, Mr. Costello, Mr. Saxton, and Mr. Gibson.
H. Res. 5268: Ms. Edee Bernice Johnson of Texas.
H. Res. 5272: Mr. Filner and Mr. Payne.
H. Res. 5285: Mr. Phelps.
H. Res. 5310: Mr. Shimkus, Mr. LaHood, Mr. Johnson of Illinois, Mr. English, and Mr. Hayes.
H. Res. 5311: Mrs. Morella and Mr. Jones of North Carolina.
H. Res. 5314: Mr. Norton.
H. Res. 5326: Mrs. Thurman.
H. Res. 5331: Mr. Terry.
H. Res. 5334: Mr. Cardin, Mr. McIntyre, and Mr. Oberstar.
H. Res. 5346: Mr. Watt of North Carolina, Mr. Lewis of Georgia, Mr. Jefferson, Ms. Delahunt, Mr. Gutierrez, Mr. Blumenauer, Mr. Hilliard, Mr. Mollohan, Mr. Dicks, Mr. Crowley, Ms. McCollum, Ms. Baldwin, Mr. Kennedy of Rhode Island, Mr. Clay, Mr. Lynch, Mr. Hlagojevich, and Mr. Neal of Massachusetts.
H. Res. 5359: Mr. Phelps and Mr. Larson of Washington.
H. Res. 5380: Mr. Akin, Mr. English, and Mr. Weldon of Florida.
H. Res. 5383: Mr. Johnson of Illinois, Mr. Barcia, Mr. Phelps, Ms. Rivers, Mr. Kaptur, and Mr. Walden of Oregon.
H. Res. 5411: Mr. Hall of Texas, Mr. McGovern, Mr. McIntyre, Mr. Moran of Virginia, Mr. Kitty, Mr. Larsen of Washington, Mr. Carson of Oklahoma, Mr. Davis of Illinois, Mr. Frost, Mr. Oberstar, Mr. Peterson of Minnesota, and Mrs. Morella.
H. Res. 5414: Mrs. Kelly.
H. Res. 5427: Mr. Castle, Mr. Boozman, Mr. Jeff Miller of Florida, Ms. Knollenberg, Mr. Ditt, Mrs. Northup, Mr. Goodlatte, Mr. Simpson, Mr. Toomey, Mr. Weldon of Florida, Mr. Upton, Mr. Latham, Ms. LaHood, Mr. McKinon, Mr. McCrery, Mr. Ryan of Wisconsin, Mr. Fletchir, Mr. Chiabot, Mr. Rehberg, Mr. Shaw, Mr. Dan Miller of Florida, Mr. Nethercutt, Mr. Wicker, Mr. Hayes, Mr. Hager, and Mr. Isakson.
H. Res. 5429: Mr. Boucher.
H. Res. 5432: Mr. Lipinski.
H. Res. 5433: Mr. Brown of Ohio.
H. Res. 5435: Mr. Sanders.
H. Res. 5445: Mr. Prtyce of Ohio.
H. Res. 5451: Mr. Farrar and Mr. Rush.
H. Con. Res. 230: Mr. DeFazio.
H. Con. Res. 351: Mr. Blumenauer, Mr. Barrett, Mr. Falcomaravai, Mr. Gordon, Mr. Israeli, Mr. Kennedy of Rhode Island, Mr. Langkvin, Mr. Levin, Mr. Markay, Mr. Matheson, Mrs. Northup, Mr. Sanders, Mr. Upton, Mr. Wu, and Mr. Wynn.
H. Con. Res. 447: Mr. Clay, Ms. Carson of Indiana, and Mr. Evans.
H. Con. Res. 462: Mr. Rodriguez, Mr. McGovern, Mrs. Jones of Ohio, Mr. Wynne, Mr. English, Mr. Peterson of Pennsylvania, Mr. Phelps, and Mr. Platts.
H. Con. Res. 466: Mr. Green of Wisconsin and Mr. Turner.
H. Con. Res. 476: Mr. Wu, Mr. Weiner, Mr. Grucci, Mr. Etheridge, Mr. Shays, Mr. Forges, Mr. Wilson of South Carolina, Mr. Holden, Mr. Graham, Mr. Geakhs, Mr. Kennedy of Rhode Island, Mr. Israel, Mr. Roukema, Mr. Calvert, Ms. Baldwin, Mr. Tom Davis of Virginia, Mr. McNulty, Mr. Watts of Oklahoma, and Mr. King.
H. Con. Res. 484: Mr. McKeon, Mr. Isakson, Mr. Graham, Mr. Platts, Mr. Greenwood, and Mr. Boshare.
H. Con. Res. 486: Mr. Frost and Mr. Baker.
H. Res. 253: Mr. Mitchell of Michigan.
H. Res. 398: Mr. Tierney and Mr. Waxman.
H. Res. 491: Mr. Rangel.
H. Res. 522: Mr. Hinojosa, Mr. Pastor, and Mr. Roybal-Alard.
H. Res. 548: Mr. Lewis of Georgia.
H. Res. 549: Mr. Geakhs, Mr. Berrusonet, Mr. McNulty, Mr. Graham, Mr. Wynn, Mr. Watts of Oklahoma, Mr. Skelton, Mr. Goode, and Mr. Collins.

DISCHARGE PETITIONS
Under clause 2 of rule XV, the following discharge petition was filed:

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS
The following Members added their names to the following discharge petitions:
Petition 4, by Mr. CUNNINGHAM on House Resolution 271: Joseph M. Hoefel and Dennis Moore.
Petition 1, by Mr. CARSON on House Resolution 146: Stephen F. Lynch.

The following Member’s name was withdrawn from the following discharge petition:
Petition 11 by Mrs. THURMAN on House Resolution 517: Bart Gordon.
The Senate met at 9:15 a.m. and was called to order by the Honorable Jack Reed, a Senator from the State of Rhode Island.

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:

RECOGNITION OF THE ACTING MAJORITY LEADER

The Acting President pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. Reid. Prior to the Chair announcing morning business time, I would advise the Senate that we are going to be in a period of morning business until 11:15. At that time, we will resume consideration of the Homeland Security Act. Cloture was filed on the Gramm-Miller amendment to homeland security. Senators have until 1 p.m. to file first-degree amendments.

Senator Daschle and I, in private conversations, have indicated to the minority that we would be willing to move this vote to today. Under the rules, it is tomorrow. We would be willing to have the vote today. We are concerned, I am concerned, and we have been told by Senators on the other side, they have 30 speakers on this amendment. As people who know how the Senate works, that is a big flag for “we are stalling.”

As I indicated, we will at the appropriate time ask that the vote be moved up until today. If they are serious about this legislation, this should indicate their seriousness.

When the Chair moves to morning business today, I ask unanimous consent, on the Democratic side, Senator Bingaman be recognized for 10 minutes and Senator Leahy for 15 minutes. Senator Bingaman, of course, is chairman of the Energy and Natural Resources Committee and Senator Leahy is chairman of the Judiciary Committee.

Next is Senator Johnson for 10 minutes and Senator Dorgan after that for 20 minutes. I ask unanimous consent for that order.

The Acting President pro tempore. Without objection, it is so ordered.

Reservation of Leader Time

The Acting President pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The Acting President pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:15 a.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time will be under the control of the majority leader or his designee. Pursuant to the order, the Senator from New Mexico is recognized.

The Economy and Iraq

Mr. Bingaman, Mr. President, I appreciate the opportunity to speak. I want to add a growing disconnect that I detect between what I am hearing in my home State of New Mexico and much of what I am hearing and reading here in Washington, DC. Frankly, I begin to worry when we are talking about one thing in Washington while the people we represent at home are talking about other things, or talking about them in different ways—in coffee klatsches, in barber shops, in various settings.
What do I mean by that? I mean in Washington in recent weeks the drumbeat has been about how we need to prepare for and pursue an attack on Iraq, and how the United Nations had better get its act together to pursue this effort in weeks rather than months or we would unilaterally act in its place.

In my State, there is talk about Iraq. Frankly, there is a great deal of concern about what is being planned and what is being contemplated, on what timetable. For the main reason I hear from people in my State relates to the economy and what is happening in the economy. Why would the economy be a major issue in New Mexico, somebody might ask? One reason is the article that appeared in the Albuquerque Journal yesterday with a headline that says, “New Mexico Tops U.S. for Poverty in 2001.”

It indicates the poverty rate for the U.S. was at 11.7 percent last year, and in my State it was 17.7 percent of our population living below the poverty line. The median income for the same period dropped over $700 between 2000 and 2001. Income levels fell for every group. This is according to the U.S. Census. Is this some group with an axe to grind? This was the U.S. Census that reported that income levels fell for every group except the very richest and the very poorest. So that is one reason people are concerned about the economy.

Another reason is because of what is happening to their pension plans, to their 401(k)s. I heard a discussion a week or so ago where I thought one of the commentators made a very good point. He said there will be an October surprise this year. As we approach elections in this country there is always a concern on the part of people who watch the political comings and goings that there will be an October surprise; something done in October in an effort to change the outcome of the election. In fact, this commentator said there will be an October surprise, but the surprise will be when each person opens their quarterly report showing where their retirement savings now stand, where they stand in their 401(k). They will see a dramatic decline in the amount of retirement savings that they have because of what is happening in the economy.

More and more people are worried that nobody in Washington—and this is what I begin to pick up in my State—there is a concern that no one in Washington seems concerned. No one seems concerned about the economy. There is no talk about any strategy to improve the economy. There is no plan to improve the economy.

To hear the pronouncements that have come out of the administration in recent weeks and months, you would think the economy is just fine, that everything is humming right along. At least we are no longer hearing from the Secretary of Treasury and others that we are on the cusp of a rebound in the economy. That talk has faded. But certainly there is no talk about any plan or any suggestion about how we are going to strengthen the U.S. economy. And the fact that we are not talking about it is of concern.

It is possible we are just reading the wrong newspapers, watching the wrong TV reports. Maybe there is something being planned. Maybe there is some strategy that is being developed in the administration. I have not seen it. I hope there is. My strong belief, though, is that is not the case. The basic question on the economy is: Stay the course.

The problem with staying the course is this is not a very good course for the average American. It is not a very good course for the average person in my State. So I hope we will begin to hear something here in Washington about this issue which is dominating the discussion in my home State.

Let me also say something about this threatened war in Iraq. Obviously, Americans want to deal with any imminent threat to our Nation’s security. I think much more so are we ready to do that after the catastrophe of 9/11. If weapons of mass destruction have been developed and were being developed with the intent to use those against us or against our allies, then that is a threat that requires us to act. I think there is general agreement on it.

We all share the goal of wanting to eliminate Saddam Hussein, and those weapons. But the question we need to debate is the means for accomplishing the goal. So far the means that the administration has insisted upon and put forward is a so-called regime change. That is the means. We are going to pursue a regime change. That is an interesting phrase. That is a euphemism for attacking Iraq, killing or capturing Saddam Hussein and his cadre of leaders, and replacing them with the leadership of a new government. It is not just about potential problems with pursuing that particular means to deal with these weapons of mass destruction. Let me just mention a few of those problems which have been discussed by others but need to be discussed even more.

One is what is the precedent we are setting? This is not a normal course for our country to pursue, attacking and invading another country without some imminent threat being demonstrated.

Second, the implications: What are the implications of such action for our relations with other Arab countries?

Third, what is the cost to us in resources? One figure we heard from the administration was $100 billion. What is the cost? What is the cost in American lives we must anticipate?

The question is, who would constitute the successor government if we are going to displace this government and put in place a government more to our liking; who would that be? The questions of how large and how prolonged a commitment do the American people want to make to the re-building of Iraq, to bringing reforms to Iraq, the effect of such an attack on world oil markets and the price of oil, the spikes in the price of oil that might occur and what that might do to our own economy, are legitimate.

We are questions in my State are concerned about and they are questions we need to have fully considered in Washington.

We need to look at other possible means besides just the simple approach of regime change. One set of ideas that has been put forward recently, that I think deserves attention and I want to just call it to the attention of my colleagues today, is a paper prepared by Jessica Mathews, President of the Carnegie Endowment for International Peace, entitled, “A New Approach, Coercive Inspections.”

This is a serious proposal and one that deserves serious attention. Essentially, the idea is that if our primary goal is to deal with weapons of mass destruction and those weapons pose when held by Iraq, then we need to consider, perhaps, a middle ground between the unacceptable status quo, which none of us like, and this idea of full-scale invasion of Iraq in order to change the regime. It proposes a third approach. It proposes a new regime of coercive international inspections where we would have a multinational military force created by the Security Council, which we would particpate in—and there would be a threat that would be there to ensure that inspections take place as the U.N. has indicated they would. There would be several advantages if we were able to pursue that kind of option. It would have the advantage of assuring our allies that we want to work with them and not go it alone. It would assure the world that our priority is what we say it is, and that is eliminating the threat of weapons of mass destruction, not just even old scores with Saddam Hussein. It avoids military conflict, if the goal of weapons inspection and weapons destruction can be achieved without military conflict. It reserves the option of force being used.

Frankly, pursuing a course such as this on Iraq would allow us to tone down the saber rattling, to calm anxieties here at home and in the world community. I think there is a great benefit that can be achieved from that, not only in our relations with our allies but I believe the economy also would benefit from believing we are pursuing a more measured course such as is described in this paper.

This is not the only proposal for how we should proceed. Maybe it is not the best, but it is certainly a serious proposal and one we should consider before we rush to authorize the President to use any and all force to bring justice and peace to that region of the world. In conclusion, people in my State want to know what is going to happen on the economy, what this Government is going to do to help them pursue a
better life and have greater economic opportunity in the future. They also, with regard to Iraq, expect us to think before we act. They hope—I hope—this President and this administration are not so committed to a single course of action that serious discussion and serious consideration of proposals such as this are precluded.

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

Requiring unanimous consent the paper to which I referred be printed in the RECORD.

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

The papers in this collection grew out of discussions held at the Carnegie Endowment for International Peace from late April to late July of this year. The discussions included top regional and military experts, former inspectors with dozens of man-years’ experience in Iraq, and individuals with intimate knowledge of the diplomatic situation at the United Nations.

A NEW APPROACH: COERCIVE INSPECTIONS

(By Jessica T. Matthews, President, Carnegie Endowment for International Peace)

The summary proposal that follows draws heavily on all those who participated in the Carnegie discussions on Iraq and on the individually authored papers. Further explanation and greater detail on virtually every aspect of the proposal’s military aspects, can be found therein.

With rising emphasis in recent months, the president has made clear that the United States is concerned in Iraq with the pursuit of weapons of mass destruction (WMD). No link has yet been found between the United States, or the world. Thus, the United States’ primary goal is, and should be, to deal with the WMD threat.

In light of what is now a four-year-long absence of international inspectors from the country, it has been widely assumed that the United States has only two options regarding the problem of weapons of mass destruction (WMD). No link has yet been found between Baghdad and nuclear, chemical, biological, and missile programs, or pursue covertly a malevolent military application to overthrow Saddam Hussein. At best, the latter would be a unilateral initiative with grudging partners.

This paper proposes a third approach, a middle ground between an unacceptable status quo that allows Iraqi WMD programs to continue and the enormous costs and risks of an invasion. It proposes a new regime of coercive international inspections. A powerful, multinational military force, created by the UN Security Council, would enable UN and International Atomic Energy Agency (IAEA) inspection teams to carry out “comply or else” inspections. The “or else” is overthrow of the regime and destruction of its nuclear, biological, and missile programs, or pursue covertly a malevolent military application to overthrow Saddam Hussein. The middle-ground option is a radical change from the earlier international inspection effort. It serves to tilt the playing field against Washington’s part to launch. Long-term success would require sustained unity of purpose among the major powers. These difficulties make this approach difficult, but not impossible. In particular, but in that light, its virtues emerge sharply.

Inspections backed by a force authorized by the UN Security Council would carry unimpeachable legitimacy and command broad international support. The effort would therefore be based on international consensus. In addition, the cooperation the United States needs for long-term success in the war against terrorism. It would avoid setting a precedent of shifting the right to decide on military action to the UN. Negotiations could prevent a second circuit—preventive self-defense. Although not likely to be welcomed by Iraq’s neighbors, it would be their clear choice over Washington’s aggressive (air-strike, terrorist attacks, and so on) should therefore be more forthcoming. If successful, it would reduce Saddam Hussein’s WMD threat levels. If failure, it would lay an operational and political basis for a transition to a war of Saddam. The United States would be seen to have worked through the United Nations with the rest of the world rather than alone, and Iraq’s intent would have been clearly tested and found wanting, Baghdad would be isolated. In these circumstances, the risks to the region of a war to overthrow Iraq’s government—from domestic pressure on shaky governments (Pakistan) to government misperceptions (Iran) to heightened Arab and Islamic anger toward the United States—would be sharply diminished.

Compared to a war aimed at regime change, the proposed approach avoids the risk of Saddam’s using whatever WMD he has (probably against Israel) while a force is assembled at his destruction is being assembled. On the other hand, inspections would avoid the looming question of what regime would replace the current government. It would also avoid the risks of persistent instability in Iraq, its possible disintegration into Shia, Sunni, and Kurdish regions, and the need to station tens of thousands of U.S. troops in the country for what could be a very long time.

A year ago, the approach would have been impossible. Since then, however, four factors have combined to make it achievable: Greatly increased concern about WMD in the wake of September 11; Iraq’s continued lies and intransigence even after major reform of the UN sanctions regime; Russia’s embrace of the United States after the September 11 attacks, and the Bush administration’s threats of unilateral military action, which have opened a political space that did not exist before.

Together, these changes have restored a consensus among the P-5 of permanent members (P-5) regarding the need for action on Iraq’s WMD that has not existed for the past five years.

CORE PREMISES

Several key premises underlie the new approach.

Inspections can work. In their first five years, the United Nations Special Commission on Iraq (UNSCOM) was responsible for inspecting and disarmament Iraq’s chemical, biological, and missile materials and capacities, and the IAEA, Iraq Action Plan, on nuclear ones, achieved substantial successes. With sufficient human and technological resources, time, and political support, inspections could eradicate WMD, if not to zero, to a negligible level. (The term ‘inspections’ encompasses a resumed discovery and disarmament phase and intrusive, ongoing monitoring and verification dual-use facilities and the activities of key individuals.)

Saddam Hussein’s overwhelming priority is to stay in power. He will willingly give up pursuit of WMD, but he will do so if convinced that the only alternative is his certain dismemberment or regime change. A credible and continuing military threat involving substantial forces on Iraq’s borders will be necessary both to get the inspectors back into Iraq and to enable them to do their job. The record from 1991 to the present makes clear that Iraq views UN WMD inspections as a serious deterrent. Achieving such an outcome would require a force substantially larger than Washington’s. That, however, should be a serious deterrent. Achieving desired outcomes without resort to war is, in the first instance, what power is for. Launching the middle-ground approach would amount, in effect, to Washington and the rest of the P-5 re-seizing the diplomatic initiative from Baghdad.

The critical element will be that the United States makes clear that it foresees unilateral military action against Iraq for as long as international inspections are under way. The United States would have to convince Iraq and others that this is not a paralyzing step to international opinion and is not an invasion. The United States’ intent is to see inspections succeed, not to use them quickly. If Iraq
is not convinced, it would have no reason to comply; indeed, quite the reverse because Baghdad would need whatever WMD it has to deter or fight with a U.S. attack. Given the past history, many countries will continue to be deeply skeptical. To succeed, Washington will have to be steady, unequivocal, and unambiguous on this point.

The point that mean that Washington needs alter its declaratory policy favoring regime change in Iraq. Its stance would be that the United States continues to support regime change, and will not take action to force it while Iraq is in full compliance with international inspections. There would be nothing unusual in such a position. The United States has had a declaratory policy for regime change in Cuba for more than forty years.

Beyond the Security Council, U.S. diplomacy will need to recognize the significant differences in strategic interests among the states in the region. Some want a strong Iraq to offset Iran. Others fear a prosperous, pro-West Iraq producing oil to its full potential. Many fear and oppose U.S. military dominance in the region. Virtually all, however, agree that Iraq should be free of WMD and they would fear the instability that is likely to accompany a violent overthrow of the Iraqi government.

Moreover, notwithstanding the substantial U.S. presence required for enforced inspections and what will be widely felt to be an unfair double standard (acting against Iraq’s WMD but not the Israeli’s), public discussion throughout the region would certainly be less aroused by multilateral inspections than by a unilateral U.S. invasion.

Thus, if faced with a choice between a war to achieve regime change and an armed, multilateral effort to eradicate Iraq’s WMD, all the region’s governments are likely to share the latter’s disadvantages.

IMPLEMENTING COERCIVE INSPECTIONS

Under the coercive inspections plan, the Security Council would authorize the creation of an Inspections Implementation Force (IIF) to act as the enforcement arm for UNMOVIC and the IAEA task force. Under the new resolution, the inspections process is transformed into a game of cat and mouse punctuated by real-time crises in which conditions heavily favor Iraqi obstruction, into a last chance, punctuated by diversions and manufactured acceptance of an Inspections Implementation Force. The size and composition of any accompanying force; others will recognize the significant advantage and ensure military success, the alternative to these inspections would be infeasible, but timelines cannot be fixed in advance. War should never be undertaken until the alternatives have been exhausted. In this case that moral imperative is buttressed by the very real possibility that a war to overthrow Saddam Hussein would be difficult to make in doing so, could subtract more from U.S. security and long-term political interests than it adds.

Political chaos in Iraq or an equally bad successor regime commit to WMD to prevent an invasion from ever happening again, possibly horrible conditions in that region toward the United States among Arab and other Muslim publics, a severe blow to the authority of the Security Council and the United Nations, and all others in the region.

Consistent with the IIF’s mandate and UN origin, Washington will have to rigorously resist the temptation to force Iraq’s access and the information it collects for purposes unrelated to its job. Nothing will more quickly sow division within the Security Council than excesses in this regard.

Operationally, on the civilian front, experts disagree as to whether UNMOVIC’s mandate contains disabling weaknesses. Although some provisions could certainly be improved, it would be unwise to attempt to renegotiate Resolution 1284. Some of its weaknesses can be rectified by tacit agreement (some have already been), some will be met by the vastly greater technological capabilities conferred by the IIF, and some can be managed through the language of the IIF resolution. Four factors are critical:

1. Adequate time. The inspection process must not be placed under any arbitrary deadline but that would provide Baghdad with an enormous incentive for delay. It is in everyone’s interest to complete the disarmament as quickly as possible, but timelines cannot be fixed in advance.

2. Experienced personnel. UNMOVIC must not be forced to climb a learning curve as UNSCOM did but must be ready to operate with maximum effectiveness from the outset. Staff need must be valued and funded through full advantage of individuals with irreplaceable, on-the-ground experience.

3. Provision for two-way intelligence sharing with national governments, the UNSCOM experience proves that provision for intelligence sharing with national governments is indispensable. Inspectors need must information from governments or at least from commercial satellites and prompt, direct access to deflectors. For their part, intelligence agencies will not provide a flow of information without feedback on its value and accuracy. It must be accepted by all governments that such interactions are necessary and that the dialogue between providers and users would be on a strictly confidential, bilateral basis, protected from other governments. The individual in charge of information collection must be able to work on the team should have an intelligence background and command the trust of those governments that provide the bulk of the intelligence.

4. Political chaos in Iraq or an equally bad successor regime commit to WMD to prevent an invasion from ever happening again, possibly horrible conditions in that region toward the United States among Arab and other Muslim publics, a severe blow to the authority of the Security Council and the United Nations, and all others in the region.

CONCLUSION

War should never be undertaken until the alternatives have been exhausted. In this case that moral imperative is buttressed by the very real possibility that a war to overthrow Saddam Hussein would be difficult to make in doing so, could subtract more from U.S. security and long-term political interests than it adds.

Political chaos in Iraq or an equally bad successor regime commit to WMD to prevent an invasion from ever happening again, possibly horrible conditions in that region toward the United States among Arab and other Muslim publics, a severe blow to the authority of the Security Council and the United Nations, and all others in the region.

The Acting President opens the Mead stockpile. Under the previous order, the Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I am fortunate to represent a State whose citizens have long been involved in international affairs. Whether through military or diplomatic service or volunteering for the Peace Corps, studying abroad, or because we live on a great international border, Vermonters have strong views about these issues.

I was in Vermont this past weekend, and as always I had the opportunity to speak to many Vermonters from all walks of life. I can say, beyond any doubt, that Vermonters across the political spectrum are very concerned about our policy toward Iraq.

They are worried that we are shifting our focus away from ending the violence in the Middle East, eliminating
al-Qaeda, and rebuiding Afghanistan even though that Herculean task has barely begun.

The President has sent to Congress a proposed resolution for the use of military force against Iraq. It would permit the President any action whatsoever to "defend the national security interests of the United States against the threat posed by Iraq, and restore international peace and security in the region."

What I hope is this the beginning of a consultative, bipartisan process to produce a sensible resolution and to act on it at the appropriate time, the current proposal is an extraordinarily over-broad, open-ended resolution that would authorize the President to send American troops not only into war against Iraq, but also against any nation in the Gulf or Middle East region, however one defines it.

Declaring war, or providing the authority to wage war, is the single most important responsibility given to Congress under the Constitution. As history has shown, wars inevitably have unforeseen, terrible consequences, especially for innocent civilians.

Blank-check resolutions, such as the one the President proposes, can likewise be misinterpreted or used in ways that we do not intend or expect. It has happened before, in ways that many people, including Members of Congress, came to regret. That is why a thorough debate on the resolution occurs. But I do want to take a few minutes to share some initial thoughts as we begin to consider this difficult question.

The question we face is not whether Saddam Hussein is a menace to his people, to his neighbors and to our national security interests. The Iraqi regime has already invaded Iran and Kuwait, gave symbols of its own population free repetitive flouted international conventions against armed aggression. It is clear that Iraq has tried to develop a range of weapons of mass destruction, including nuclear, chemical, and biological weapons, with which Iraq might threaten the entire Gulf region.

I would like to see Saddam Hussein gone as much as anyone. But the question is, how immediate is this threat and what is the best way to deal with it, without undercutting our principal goal of protecting the American people from terrorism, promoting peace in the Middle East, and other important U.S. national security priorities?

Some administration officials have suggested that to ask questions about going to war in Iraq is somehow unpatriotic, or indicative of a lack of concern about national security. That is nothing more than election-year партиан politics at its worst. These questions are being asked by Americans in every State of the Union.

Until recently our focus has been, rightly so, on destroying al-Qaeda and other terrorist networks. While that challenge is billions of dollars and continues to occupy the attention and resources of the Department of Defense and the U.S. intelligence community, the administration has suddenly shifted gears and is now rushing headlong toward war with Iraq. Some have argued that Congress must act now to strengthen the President’s hand as the administration negotiates at the United Nations. But what we are saying is that regardless of what the Security Council does, we have already decided to go our own way. I contrast that with the situation in 1990 when the United States successfully assembled a broad international coalition to fight the Gulf War. The Congress passed a resolution only after the U.N. acted.

President Bush deserves credit for focusing the world’s attention on international terrorism and weapons of mass destruction. I have said this over and over again. But the process that has brought us to the brink of preparing for war with Iraq has been notable for its confusion.

The statements of administration officials have been fraught with inconsistencies. They claim to speak for the American people, but average Americans are urging the administration to proceed cautiously on Iraq and to work with the United Nations. Our allies are confused and angry about the way this has been handled. Our friends in the Middle East are fearful of what lies ahead.

I will have more to say when the debate on the resolution occurs. But I do want to take a few minutes to share some initial thoughts as we begin to consider this difficult question.

Earlier this week, the former Chairman of the Joint Chiefs of Staff, General John Shalikashvili, warned the administration of the dangers of attacking Iraq without the backing of the United Nations:

"We are a global nation with global interests and an enormous credibility of the United Nations does very little to help provide stability and security and safety to the rest of the world, where we have to operate for economic reasons and political reasons."

Working through the United Nations to readmit the weapons inspectors could be effective in disarming Iraq. Rolf Ekeus the former executive chair-

The international community cannot and must not repeat the mistakes of 1998. We have already seen some troubling signs of diplomatic double talk from the Iraqis, particularly on the issue of unimpeded access for the inspectors. The international community cannot and must not concede any part of the Iraqis, and Secretary Powell is right to push for a new U.N. resolution.
Other members of the Security Council should join United States and British efforts to craft a strong new resolution with a deadline for Iraqi compliance. The U.N. has a responsibility to enforce its demands. If the U.N. does not act to ensure that the inspection regime is effective, my original concern will end up back where we were in 1998. Saddam will play the same cat and mouse game, the U.N. will look toothless, and we will be not be able to destroy the Iraqi weapons program.

We need a strengthened inspection regime that has preexisting authority from the Security Council to deploy military force to back up the inspectors if there is resistance from Iraq. I hope that the Administration works with the United Nations, not so much the other way around, to make this happen.

If Iraq resists the inspections, and the President decides to use military force, then the procedure is clear. He can ask for a vote of war from the Congress, and the Congress can vote. But voting on such a resolution at this time would be premature. A decision to invade Iraq to topple Saddam Hussein should be based on a complete assessment of the threat Iraq poses to the United States. What is the evidence—as opposed to assertions and assumptions—that Iraq is close to acquiring a nuclear weapon? What is the evidence that Iraq is capable of launching, or has any intention of launching, an attack against us or one of our allies?

And there are more questions that are as yet unanswered. What is the evidence that Saddam Hussein wants to commit suicide, which such an attack would guarantee? Why is containment, a strategy which kept the Soviet Union with its thousands of nuclear warheads and chemical and biological weapons at bay for years, not valid for Saddam Hussein, a cold, calculating tyrant who cares above all about staying in power? And what is the evidence that the President decides to use military operations by U.S. and coalition forces.

Yet the administration, despite calls by President Bush for a Marshall plan, did not ask for a single cent for Afghanistan for fiscal year 2003. In addition, $94 million for stabilization, reconstruction and assistance to Afghanistan, which Congress added in the supplemental appropriations bill, was not deemed an emergency by the President.

Some relief organizations have already been told that they may have to shut down programs for lack of funds. This is happening in a country that so desperately needs the most basic staples such as water, education and medical help. Afghans who have returned to their homes from the outside may become refugees once again.

Many other nations have yet to fulfill pledges of assistance to Afghanistan, but if the President is serious about a Marshall Plan, and I believe he is, then we need much more to help rebuild that country.

Yet, as we continue to face difficult challenges in Afghanistan and hunting down members of al-Qaida, not to mention a number of challenges here at home, such as the economy, we are suddenly being thrust into a debate about Iraq. It is a debate that will have lasting consequences for our standing in the world as a country that recognizes the importance of multilateral solutions to the world’s problems and that respects international law.

General Wesley Clark, who headed the successful U.S. and NATO military campaign in Kosovo, recently addressed this problem directly, when he wrote:

The longer this war on terrorism goes on—and by all accounts, it will go on for years—the more our success will depend on the willingness of our allies to root out terrorist cells in Europe and Asia, to cut off funding and support of terrorists and to deal with Saddam Hussein and others that are more likely to gain the support we need by working through international institutions than outside of them.

The world cannot ignore Saddam Hussein. I can envision circumstances which would cause me to support the use of force against Iraq, if we cannot obtain unimpeded access for U.N. inspectors or the United States is threatened with imminent harm.

But like many Vermonter, based on what I know today, I believe that in order to solve this problem without potentially creating more enemies over the long run, we must act deliberately, not precipitously.

The President has taken the first step by seeking support from the United Nations. Let us give that process time. If it fails, then we can cross that bridge when we come to it.

But I am reminded of my first year as a U.S. Senator. The year was 1975, and at that time the Senate had already been told that by 1975, we had not asked for a single cent for Afghans who had voted for the Tonkin Gulf resolution a decade earlier. That vote was 88-2, and many of those Senators.
Democrats and Republicans, spoke of that vote as the greatest mistake of their careers.

That resolution was adopted hastily after reports of a minor incident which may, in fact, not have occurred at all. It was interpreted by both the Johnson and Nixon administrations as carte blanche to wage war in Vietnam for over a decade, ultimately involving over half a million American troops and resulting in the deaths of over 58,000 Americans. I regret that the administration is trying to deceive Congress or the American people, and I recognize that the situation in Iraq today is very different from Vietnam in 1964. But we learned some painful and important lessons back then. And one that is as relevant today as it was 38 years ago, is that the Senate should never give up its constitutional rights, responsibilities, and authority to the executive branch. It should never shrink from its Constitutional responsibilities, especially when the lives of American servicemen and women are at stake.

So when we consider the resolution on Iraq, I hope we will remember those lessons, because under no circumstances will the Congress pass a blank check and let the administration fill in the amount later. The Constitution does not allow that, and I will not do that.

The PRESIDING OFFICER. Under the previous order, the Senator from South Dakota is recognized.

IRAQ

Mr. JOHNSON. Mr. President, I rise today to state my intention to vote in favor of a resolution to authorize the use of military force against Iraq. At this point, final resolution language is not available, but I support the President, and as a member of the Appropriations Committee, look forward to working with him to ensure that our Armed Forces remain the best-equipped, best-trained fighting force in the world.

Simply put, the world would be a far safer place without Saddam Hussein. As long as he remains in power in Iraq, he will be a threat to the United States, to his neighbors, and to his own people. Over the past decade, he has systematically reneged on his commitments to the international community. He has refused to halt his weapons of mass destruction program, to renounce his support for international terrorism, and to stop threatening peace and stability in the region. The threat that Saddam Hussein continues to pose to our national security interests, and his failure to abide by previous United Nation's Security Council resolutions, provides sufficient justification should military action become necessary.

I am pleased that President Bush has come to the Congress to ask for authorization for the use of force in Iraq, and that the White House is continuing to work with us to develop the appropriate language for a congressional resolution. It is important for the people's representatives in Congress to have the opportunity to fully debate and vote on such an important issue. I hope we will move to this vote in an expeditious manner.

In addition, I back the administration's efforts to build support for our policy in Iraq with our allies and with the international community as a whole. Secretary of State Colin Powell has been particularly effective in making the case that Iraq has not complied with the relevant Security Council resolutions and that remains a threat. Make no mistake, I believe the United States is within its rights to act alone militarily to protect our vital national security interests. I are required by circumstances to act alone, I will support the President should not be contingent upon the decisions made by other nations or organizations. My expectation, however, is that this resolution will strengthen the hand of the President at securing United Nations or international support and cooperation, and I encourage his on-going effort in that regard.

I believe that there is value in building an international coalition of nations and in having the full support of our allies. International support brings practical benefits, such as basing rights for U.S. soldiers and equipment in the region and authorization to use the airspace of neighboring countries to execute military strikes against Iraq. In addition, international support will increase the likelihood of success for our long-term strategy in Iraq and for the ongoing war on global terrorism that the President has said should not be voting to send my own son into combat, and that give me special empathy for the families of other American servicemen and women whose own sons and daughters may also be sent to Iraq. Nevertheless, I am willing to cast this vote—one of the most important in my career, both as a Senator and certainly as a father—because I recognize the threat that Saddam Hussein represents to world peace. It is my hope that we can move forward quickly, in a bipartisan manner, to approve a resolution that will give the President the authority he needs to defend our Nation.

The PRESIDING OFFICER (Mr. Nelson of Florida). Under the previous order, the Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, this is called the greatest deliberative body in the world. I have always been enormously proud to be a part of it. There are times I think we treat the light too seriously and then the serious too lightly, but in this time and place, the issue of national security is something of all of us understand is serious. This is a deadly serious business. The question of war with Iraq, the question of homeland security, are very important issues. I know there was some controversy yesterday beginning with stories in the newspaper and in the Senate Chamber about statements by the President.

I don't think there is a context in which it is ever appropriate for us to suggest or the President to suggest the opposing political party or members of the opposing political party do not support this country’s national security. You will never, ever, hear me suggest a group of my colleagues don't care about this country's national security. I will never do that. It is not the appropriate thing to do.

When you read the President's statements at fundraisers about these matters and hear his suggestion, no matter the context, that the U.S. Senate doesn't seem to care about national security, it is not true. The President has interests ahead of the Nation's interests with respect to security, that is wrong.

National security is deadly serious business. The issue has to do with the country of Iraq, but much more than that, it is a very troubled region of the world—the question of whether a tyrant, an international outlaw of sorts, is going to acquire nuclear weapons and threaten his region and the rest of the world, and what we might be considering doing about that, what we should do about it, and what the United Nations considers we should do about it. That is serious business.

Any discussion ever about sending our sons and daughters to war is serious business. It has nothing to do with political fundraisers or in the normal routine of American political partisan activity leading up to an election.

Yesterday I attended a top secret briefing with Vice President Cheney at his invitation. I happen to think we are all on the same side. We have a single relentless interest, and that is the interests of this country and its security.

Yesterday it was said some of this dispute relates to the discussions about terrorist security or the situation taken by some Members of the Senate with respect to homeland security. There is no right or wrong way to do homeland security. There are lots of ideas on how one might address homeland security. It happens to believe port security is very important. We have 5.7 million containers coming in on container ships every single year; 100,000 of them are inspected, and 5.6 million are not. If a terrorist were to want to introduce a weapon of mass destruction into this country, do you think they would not consider putting it in a container on a ship that is going to come up to a dock.
at 2 miles an hour and dock at one of our major ports, to be taken off and put on 18 wheels, driven across the country to its target?

No, we will spend $7 or $8 billion this year believing a rogue nation or terrorist has an intercontinental ballistic missile, put a nuclear bomb on top of it; so we will spend $7 to $8 billion on national missile defense. Is that the smart thing to do, at a time when 5.6 million containers will show up at our docks and are unsupervised? That is a decision this Congress ought to take a hard look at.

We have differences on the homeland security bill. It is not that one side believes in supporting this country's defense and this country's security and the other side doesn't. There are differences about it. Is putting 170,000 people into one agency, moving all these boxes around into one agency, is that going to make us better, more fit, more capable of defeating terrorism? Maybe. But the bureaucratic is not the way to address terrorism. These 170,000 people will not include the CIA and the FBI. Just read the papers in the last couple of months and ask yourself, where have the problems been in this battle and the interpretation of intelligence and information about prospective terrorists? They are not even a part of this.

Some say if the President doesn't have flexibility to deal with all of these problems in an appropriate way he thinks necessary, somehow it affects our country's security. It is as if taking 170,000 workers and putting them into one agency and providing some basic security, the kind of basic security they have had with respect to jobs, is counter to this Nation's security. I don't believe that at all.

Go back 100 years and ask yourself what happens in a country such as ours when you decide the Federal workforce shall be the patronage? Probably Federal workers will have no security, but can be used at the whim of an executive agency. I am not talking about this one; I am talking about any executive agency or any administration. This country has been best served by making sure we have a Federal workforce that we can trust, that works hard, that is honest, that serves this country well, and that doesn't serve any partisan interest ever.

Some say let's get rid of all the worker protection that is the way to handle homeland security. That doesn't make any sense to me. There is not a Republican or a Democratic way to develop the issue of security for this country. This is not about political parties. It is about trying to figure out what is the best approach to protect this country's interests, what is the best approach to do that.

Those who want to use this politically do no service to this country's interests. It is about that politics. It is, indeed, about security.

Let me make the next point. Yes, security with respect to people such as Saddam Hussein, and I hope at the end of the day we can find a way to pass a resolution in this Senate that has broad bipartisan support. I hope that is what happens. I believe that is what should happen. I hope at the end of the day we will have a homeland security bill that works, one that is effective, one that gives us confidence about defeating prospective terrorists and those prospective terrorists' acts against the American people.

Also, there is another issue with respect to security, and that is the security of our country with respect to the economy and what is happening inside our country. Take a look at the stock market these days. The stock market is colored like a pancake. Why? Because investors are nervous. There is no predictability, consistency, security. They are nervous.

We have had a circumstance in recent years where big budget surpluses that were projected for 10 years have turned to big budget deficits. We have had a recession. We have had a terrorist attack on our country that was the worst terrorist attack in the history of our country. In addition to that, a war against terrorists and a collapse of the technology bubble and a collapse of the stock market. We have had a corporate scandal unparalleled in the history of this country. It shakes the faith of the American people in this economic system of ours.

Even as we discuss all of these security issues, let's understand there is one additional security issue, and that is the economic security of the people in this country, an economy that, hopefully, grows and provides opportunities and jobs once again. This economy is in trouble, and it would serve this President and this Congress well to decide to do something together to do something about that as well.

More and more people are out of work. What does that mean? Is that a statistic? No, it is not just a statistic; it is someone's home from work one day and says: Honey, I have lost my job, a man or woman who is well trained and worked hard, and because the economy runs into some trouble, they are laid off. Hundreds of thousands of Americans are losing their jobs. It is a big problem.

For those who lose their jobs, their statistic is 100-percent unemployment. They wonder whether there are people around here who care about that. Will there be people who care about economic security issues, trying to put the pieces back together in an economy that is troubled?

We are looking at an average 401(k) retirement-savings account has lost about a third of its value. A North Dakota who worked for the Enron Corporation for many years wrote to me and said: I had $330,000 in my 401(k) account. It was my life savings—$330,000. It is now worth $1,700.

Do you think that family cares about whether we try to do something to fix what is wrong with this economy? That also deals with security—economic security.

We have all across the central heartland of this Nation family farmers, in my judgment the economic all-stars of America. They raise the food that a hungry world so desperately needs. But a massive drought has occurred across much of this country. Many of those farmers and ranchers have produced nothing.

In my home area of southwestern North Dakota, the landscape looks like deserts. It looked like the moonscape, in fact, with no vegetation.

The question is: What about economic security for people who have suffered a natural disaster of a drought? This Senate answered that. The Senate said: Let's provide some emergency help, just as we do when tornadoes, earthquakes, fires, and floods happen. When these natural disasters occur, this country says to people affected: You are not alone; we are here with you; we want to help. So this Senate, with 79 votes, said: We want to help you; we want to help provide some economic security during a tough time, during a disaster. The drought was not your fault, we say to farmers and ranchers.

But the House of Representatives and the President do not support the bill we passed in the Senate that also deals with economic security.

Nobody in this Chamber has a farm someplace 15, 25 miles from town and has invested virtually everything they have in seeds to plant in the ground in the spring and then discovered it did not rain and those seeds are gone, there is no crop, and they do not have the money for family expenses to continue, so they are going to have to put what is left up for auction. No one in this Chamber suffers that fate—no one.

No one in this Chamber gets up to do chores in the morning—mill cows, feed the cattle, service farm machinery. Nobody does that. But this Chamber understands because 79 Members of the Senate voted for a disaster package to help family farmers during this disaster.

We hope that when we have all of this talk about security, which I think is deadly important and deadly serious—we hope security includes a discussion about economic security, and part of that economic security is providing a disaster bill and disaster help to family farmers when they need it. I ask the House of Representatives and the President to stop blocking that disaster bill.

Another part of this issue of economic security is fixing what is wrong with respect to corporate governance in dealing with corporate scandals. We passed a bill in the Senate dealing with that, but it is not quite enough. We must do more.

Senator SARBANES, in my judgment, deserves the hero's award for being able to put together the bill he did. I
was proud to vote for it. One amendment, to give an example of the unfinished business, I tried to offer and which was blocked for 3 or 4 days by my colleague, Senator Gramm from Texas, dealt with bankruptcy. That amendment is now law. Let me give an example of what I was trying to do and why it is unfinished business if we are really going to provide economic security.

The Financial Times did a study of the 25 largest bankruptcies in America. Here is what they discovered: Of the 25 largest corporate bankruptcies in America, the year and a half before bankruptcy, 208 executives of those corporations took $3.3 billion out of the company. Then they went bankrupt.

My belief is, when executives are taking a company to bankruptcy and filing their pockets with gold, there is something fundamentally wrong. Investors lose their savings, employees lose their jobs, everybody else loses their shirt, and the top executives of the largest bankrupt companies in the country walk away to their homes behind closed doors and continue their money. They walked off with $3.3 billion in the 25 largest bankruptcies. Shame on them.

I wanted to offer an amendment that recaptures and disgorgets those ill-gotten gains. Does anybody here believe that anybody, as they take a company into bankruptcy, the year before it goes to bankruptcy should be getting incentive payments and bonus payments for a company that is going down the tubes? Does anybody believe that? That is unfinished business, and there are other pieces dealing with this corporate issue to which we must respond.

The other unfinished business deals with health care, for example, and prescription drugs. We have not passed a prescription drug bill and put a prescription drug benefit in the Medicare Program despite all of our best efforts. That also deals with economic security because when someone needs lifesaving medicine and cannot afford it, it means that medicine saves no lives.

We have people in this country who desperately need prescription drugs to provide the miracle cures and the opportunities for a better life and cannot afford them. We believe putting a prescription drug benefit in the Medicare Program is the right thing to do. No, not some shell, not some phony gimmick. The House did just cobble up a little effort: By the way, let's call this a prescription drug benefit and let the managed care organizations handle it. That does not make any sense. They know it. We know it. They are just trying to create a defensive position to say they did something when, in fact, they did nothing.

We are going to do something, and we should, with respect to prescription drugs for senior citizens. We ought to do it right and do it well. That is another piece of unfinished business that deals with security—economic security and family security.

In Dickinson, ND, a woman went to her doctor with breast cancer and had surgery for breast cancer, and the doctor said to the woman on Medicare: In order to prevent a recurrence of breast cancer, the best chance to prevent a recurrence, you need to take these prescription drugs I am going to prescribe for you.

She said: Doctor, what does it cost? And he told her.

She said: Doctor, there is no way I can afford to buy those prescription drugs. I am just going to have to take my chances.

That is how the doctor testified at a forum I held at home in North Dakota. That is why it is important to complete the undone business dealing with economic security, security for American seniors, to put a prescription drug benefit in the Medicare Program that really works. We have not been able to do that because we are blocked by people who do not want that to happen.

Mr. REID. Finally, because of the need to pass homeland security and the Interior appropriations bill, I am the first to say we ought to help. I have always wanted to raise cattle in the spring? Or raise cattle in the spring? Is it not unusual that a President, who says he wants this bill so badly, has not helped move the bill in 4 weeks, and now the majority leader has arranged a procedure where they can have a vote on the so-called Gramm amendment and they are not taking yes for an answer? Do you think they are really serious about moving homeland security?

Mr. DORGAN. There is a code word for ‘fill-buster.’ Is it not unusual that a President, who says he wants this bill so badly, has not helped move the bill in 4 weeks, and now the majority leader has arranged a procedure where they can have a vote on the so-called Gramm amendment and they are not taking yes for an answer? Do you think they are really serious about moving homeland security?

Mr. REID. I am happy to yield.

Mr. DORGAN. There is an urgent need to get this done. We have family farmers, and the families are sitting around their supper tables talking about their dreams, whether they are going to have to have an auction sale. Will they be able to make it? Or get through the winter? Or raise cattle in the spring? Or plant seed in the spring? They do not know.

If we provide disaster help, they will. If we do not, many will not make it.

I have been pleased, and will always be pleased as a Member of this body, to support, in every circumstance, those around this country who suffer disasters. When Florida is hit by a devastating hurricane, or California by a devastating earthquake, or a dozen other natural disasters I could name, I am the first to say we ought to help. I always want to vote yes. My state always wants our country to say to those people affected by the disasters, you are not alone; the rest of the country is with you.

That is why I was so pleased with what the Senate did, by 79 votes, saying we need a disaster bill to deal with the devastating drought. In some areas it is as bad as it has been since the 1930s.

In answer to the question, there is unfinished business in the Interior bill. We ought to get it done. Those who are blocking it ought to stop blocking it.

Mr. DORGAN. Finally, because of the need to pass homeland security and certainly this drought assistance, and we are spending so much unnecessary time on it, I have said this is an effort to divert attention from all the issues of the economy, and I have heard the Senator from North Dakota ask on many occasions: Why are we not doing something with bankrupcy reform? Election reform? Why are we not doing something with bankrupcy reform? Election reform?
aren't we doing something with generic drugs? The Senator talked about the Patients' Bill of Rights, terrorism insurance—on all the domestic issues, we have heard not a word and are getting no help from the majority in the House or the minority in the Senate, and certainly not from the White House.

Does the Senator acknowledge we are not spending much time on economic issues?

Mr. DORGAN. I talked about the issue of security and said it is deadly serious business, national security, homeland security. But there is another area very important for the country. That is economic security. We are spending virtually no time on that. We ought to. The American people deserve to have a Congress that, yes, is concerned about national security, concerned about homeland security, but that is willing to tackle during tough economic times the economic security issues as well. This Congress has not been willing to do that.

Let me end as I began, because this is important. I will never minimize the importance of the security issues. In my judgment, the President and the Congress need to act and speak as one when we talk about the security of this country. No one will ever, ever hear me say any Member in this Chamber does not believe in the security of this country or does not act to support the security of this country. I will never say that. I do not want to hear the President say that and I do not want anyone else to say it. I believe every Republican, Democrat, conservative and liberal, believes in their heart that whatever they are doing represents the security interests of this country. They love this country and believe in the country, and that goes for everyone serving this country. I don't want anyone to suggest in any way under any context there are those who believe in security more than others. We all love this country and want to do what is right and best for this country. I will strongly support the security of this country. It is national security. It is homeland security. It is economic security.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the second half of the time shall be under the control of the Republican leader or his designee.

The Senator from Pennsylvania.

HOMELAND SECURITY

Mr. SPECTER. Mr. President, I have sought recognition to encourage my Senate colleagues to pass legislation on homeland security and to send it to conference. There are many more agreements, much more agreement than disagreement, and the disagreements are relatively minor.

Last week, I said the Senate was dysfunctional, because we had not passed a budget resolution. For the first time since the Budget Act was passed in 1974, the Congress has not passed a budget resolution. The Senate has not passed a budget resolution. Thirteen appropriations bills have not been passed. We have been on the Interior bill for weeks now and homeland security for weeks. Long speeches. Not getting anyplace. Not going to the two pilots in Kuala Lumpur. The CIA knew about it, but did not tell the FBI or INS, and they turned out to be two of the pilots on September 11.

We know from the efforts made by the Minneapolis Office of the FBI to get a warrant under the Foreign Intelligence Surveillance Act as to Zacarias Moussaoui, which would have given us a veritable blueprint of al-Qaida's intent, that certainly it would have led us to the trail and could have prevented September 11.

Then we have the famous, infamous, report coming to the National Security Agency on September 10 about an attack the very next day, which was not translated.

There is much more I could comment about, but the time is limited.

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

Mr. SPECTER. OK, on your time.

Mr. REID. We don't have any time, but I am sure if we need any time—

Mr. SPECTER. Senator DOMENICI, with the only Senator waiting, says it is OK, so I will be glad to respond to the question.

Mr. REID. The reason I want to have an exchange with the Senator is I think maybe what the Senator said yesterday may actually support your position.

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Mr. REID. The reason I want to have an exchange with the Senator is I think maybe what the Senator said yesterday may actually support your position.
I agree with the Senator from Nevada that we ought to send the bill to conference. When we had prescription drugs on the Senate floor, I voted for the Republican measure, Grassley-Snowe, and then I voted for the bill put up by Senator Graham of Florida. It seemed to me the important thing was to get the matter to conference so that the issue could be resolved with finality.

The two pending issues which are outstanding in law, the difference between the bill offered by Senator Gramm and the bill offered by Senator Lieberman, with the Breaux amendment, boil down to this: It is the President's authority to waive the provisions on collective bargaining in the event of a national emergency.

Now, listen closely to what the President must do under existing law:

The President may issue an order excluding any agency or subdivision thereof for covered chapter purposes. By collective bargaining, if the President determines that, A, the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work; and B, the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

This is what Senator Breaux wishes to add:
The President could not use his authority without showing that, No. 1, the mission and responsibilities of the agencies or subdivisions materially changed and, No. 2, a majority of such employees within such agencies or subdivisions have as their primary duty: Intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

It is true the Breaux amendment does add a requirement for the President to exercise his authority. It is true that there is an additional requirement, and the President does lose a little power. However, the requirements of existing law—which relate to intelligence, counterintelligence, and investigation—are very similar to the provisions of the Breaux amendment—which relate to intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

The President must make an additional showing. However, it is a showing which is very much in line with what the President has to show under existing law.

The PRESIDING OFFICER. The Senator has used 10 minutes. Mr. SPECTER. Mr. President, I ask unanimous consent for an additional 5 minutes.

Mr. DOMENICI. Mr. Chairman, I ask unanimous consent that I follow him for up to 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. I thank the Chair. Mr. SPECTER. I thank my colleague from New Mexico.

Mr. President, the other provision which is in controversy relates to the flexibility which the President is seeking with the Breaux amendment. The President's authority to add a requirement for the President to have the flexibility under four of the categories, and then in the event of disagreement between management and the union, the controversy would go to the Federal Services Impasse Panel.

There are seven members of that panel and all have been appointed by President Bush. It is customary for that panel to change when the administration changes. The four categories which are in the Breaux bill allow for performance appraisal, classification, pay raise system, and labor-management relations, all of which the President wants, and only the limitation going before the impasse panel, which should not be an obstacle, and then the other two are adverse actions and appeals.

So that if you boil it all down, our area of disagreement is really very minor. The bill which is going to come out of conference is obviously going to take up these issues. We know, as a matter of practice when there is a Presidential veto or a firm statement about a Presidential veto, invariably the Congress relents on an individual point or a provision.

So it would be my hope that we could yet resolve this controversy. I talked to Senator Breaux, Senator Gramm of Texas, and Senator Lieberman, and the parties are very close. I have not yet stated a preference for either position. I am being lobbied on both sides. It is a very major matter for my constituency on both sides, a very large labor constituency in Pennsylvania, and very grave concern on my part that the President's powers not be diminished in a way which would impede his efforts on a Department of Homeland Security.

When you take a look at where we are with the various problems of lapses in security—there have been a parade of witnesses before the joint intelligence committees of the House and Senate. We counted some of these, not all. In view of the limited time, Mr. President, I ask that there be added at the conclusion of my comments a recitation of a number of other warnings which were given, which could have provided a veritable blueprint.

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

(See exhibit 1.)

Mr. SPECTER. Our job is plain, it seems to me, and that is to move ahead, to have a reconciliation, a rapprochement. Let us not have this as a chamber of rancor. Let us not have a dysfunctional Senate. We have many bills which are now pending in the conference committee, which have not been acted upon—the energy bill, the Patients' Bill of Rights, the voting machine correction bill, the terrorism re-insurance bill, the bankruptcy bill, and others, which are awaiting conference. We have a very heavy duty to the American people to complete the people's business, and we need to finish the appropriations bills and not have a continuing resolution of Congress.

I think it is becoming apparent to the American people that we have a dysfunctional Senate. We have to move away from that. We have to let our enemies—the terrorists and Saddam Hussein—know that the Republican Party system is better characterized by that famous embrace between the President and Senate majority leader at the Joint Session of Congress shortly after September 11.

I intend to return to the floor to talk in more detail about the Breaux amendment, but I think it is plain by an analysis of what the Breaux amendment does that it ought to be resolved and it ought not to stop this Congress from acting. It was prosperity and it was tragedy and a tragedy if we were to go over into next year without having a homeland security bill so that we can correct the major problems in the intelligence function of this country.

I again thank my colleague from New Mexico and yield the floor.

EXHIBIT 1

A VIRTUAL BLUEPRINT

NSA INTERCEPTS

The NSA intercepted two messages on the eve of September 11 attacks on the world Trade Center and the Pentagon warning that something was going to happen the next day, but the messages were not translated until September 12. The Arabic-language messages said, "the match is about to begin," and "Tomorrow is zero-hour." They came from sources—a location or phone number—that were of high enough priority to translate them within two days but were not put in the top priority category, which included communications from Usama bin Laden or his senior al Qaeda assistants.

MURAD

In January 1995, the Philippine National Police discovered Ramzi Yousef's bomb-making facility in Manila and a diplomatic agent named Abdul Hakim Murad. Captured materials and interrogations of Murad revealed Yousef's plot to kill the Pope, bomb U.S. and Israeli embassies in Manila, blow up 12 U.S.- owned airliners over the Pacific Ocean, and crash a plane into CIA headquarters. Murad is a promoter of the same radical interpretation of Sunni Islam ideology as Usama bin Laden, who emerged during this time frame as promoting this radical ideology.

NOTE: This provided a data point on a terrorist group discussing a plan to use an aircraft as a weapon in the possession of the Intelligence Community.

PHOENIX MEMORANDUM

The FBI paid too little attention to a July 10, 2001 memorandum written by an FBI agent in Phoenix urging bureau headquarters to investigate Middle Eastern men enrolled in American flight schools. The Phoenix Memo" cited Usama bin Laden's name and suggested that his followers could use the schools to train for terrorist operations. Federal authorities had been aware for years that a small number of suspected terrorists with ties to bin Laden had received flight training at schools in the United States and abroad.

Pakistani terrorist plotter Murad, who had planned to blow up airliners over the Pacific,
trained at four U.S. schools in the early 1990s.

CRAWFORD BRIEFING
President Bush and his top advisers were informed by the CIA in early August 2001 that information obtained with Usama bin Laden had discussed the possibility of hijacking airplanes. The top-secret briefing memo presented to President Bush on August 6 carried the headline, “Bin Laden Determined to Strike in US,” and was primarily focused on recounting al Qaeda’s past efforts to attack and infiltrate the United States.

MOUSSAOUI & MINNEAPOLIS FBI
Minneapolis FBI agents investigating terrorist suspect Zacarias Moussaoui last August were severely hampered by officials at FBI headquarters, who resisted seeking FISA surveillance and physical search warrants, applied erroneous probable cause standards, and admonished agents for seeking help from the CIA.

KUALA LUMPUR
The CIA tracked two of the Flight 77 (Pentagon) terrorists to a Qaeda summit in Malaysia in January 2000, then did not share the information concerning terrorists entering America and began preparations for September 11. The CIA tracked one of the terrorists, Nawaf Alhazmi, as he flew from the meeting to London, and discovered that another of the men, Khalid Almidhkar, had already obtained a multiple-entry visa that allowed him to enter and leave the United States. The CIA did nothing with this information. Instead, during the year and nine months after the CIA identified them as terrorists, Alhazmi and Almidhkar lived and traveled in the United States, using their real name, obtaining drivers licenses, opening bank accounts and enrolling in flight schools—until the morning of September 11, when they boarded American Airlines Flight 77 and crashed into the Pentagon.

BIN LADEN
On February 26, 1993, a bomb was detonated in the parking garage of the World Trade Center in New York City. On June 24, 1993, the FBI arrested eight individuals for plotting to bomb a number of New York City landmarks, including the United Nations building and the Lincoln and Holland tunnels. The central figures in these plots were Ramzi Yousef and Shaykh Omar Abdel al-Rahman. Yousef and al-Rahman have been linked to Usama bin Laden and are now serving prison sentences.

Following the August 1998, bombings of two U.S. Embassies in East Africa, Intelligence Community leadership recognized how dangerous Bin Laden’s network was and that he intended to strike in the United States. In December 1998 DCI George Tenet provided written guidance to his deputies at CIA headquarters, or the White House, and the Central Intelligence Agency (CIA) headquarters, or the White House, and the National Security Agency, and the FBI, and the Justice Department and the State Department and was included in a closely held intelligence report for senior government officials in late 1998.

In early 1999, the Intelligence Community was aware of an unidentified Arabs planning to fly an explosive-laden airplane into a U.S. landmark and detonating it; this information was provided to senior U.S. Government officials in late 1998.

In October 1999, the Intelligence Community obtained information that al Qaeda was planning to establish an operative cell within the United States. This information indicated that there might be an effort underway to recruit U.S. citizens to travel to Afghanistan and to commit suicide in the United States. In January 2000, DCI Tenet was aware of an effort underway to recruit a group of five to seven young men from the United States to travel to Afghanistan and join an al Qaeda training camp.

On December 17, 1999, the Intelligence Community learned that Usama bin Laden was considering attacks in the U.S., including Washington, DC, and New York. This information was provided to senior U.S. Government officials in July 1999.

In August 1998, the Intelligence Community obtained information concerning a group of unidentified Arabs planning to fly explosive-laden airplanes from a foreign country into the World Trade Center. The FBI’s New York field office took no action in connection with this information. In September 1998, the Intelligence Community obtained information that Usama bin Laden’s next operation could involve flying an explosive-laden airplane into a U.S. landmark and detonating it; this information was provided to senior U.S. Government officials in late 1998.

In October 1998, the Intelligence Community obtained information that al Qaeda was planning to establish an operative cell within the United States. This information indicated that there might be an effort underway to recruit U.S. citizens to travel to Afghanistan and to commit suicide in the United States. Information concerning a Bin Laden plot involving aircraft in the New York and Washington, DC, areas, was released to the public in November 1998; however, the Intelligence Community learned that a Bin Laden was attempting to recruit a group of five to seven young men from the United States to travel to Afghanistan and join an al Qaeda training camp.

In the spring of 1999, the Intelligence Community was aware of a planned Bin Laden attack on a U.S. Government facility in Washington, D.C. In July 1999, the Intelligence Community received information that an individual associated with al Qaeda was preparing to infiltrate the United States. There was no information available as to the timing of possible attacks or on the alleged targets in the United States.

The PRESIDENTIAL OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I say to Senator SPECTER, I am sure you had some more to say and I apologize, but it seems like the harder I try to get time here the worse it works out for me.

Mr. SPECTER. It is the Senator’s turn, and I am anxious to hear what the Senator has to say.

Mr. DOMENICI. I thank the Senator.

THE BUDGET

Mr. DOMENICI. Mr. President, I made a few remarks 3 or 4 days ago talking about where we are and what we are doing, and I would like to finish those remarks today.

Before I get to a discussion of the American economy,

First, in less than 5 days the new fiscal year begins. That means if you are a businessman, no matter how small or how large, you would be closing down your books, you would be adding everything up, you would be doing a couple of additions and subtractions, and you would find out how well or how poorly you did—a very important event in the life of an ongoing business.

The United States is similar except it is much bigger. Frankly, it does not keep its books nearly as well as the small businesspeople of America, who must keep them much better than we do because of the Internal Revenue Service if nothing else. We are not audited by anybody. We do ours in some strange ways.

The truth is that the year ends October 1. I think both the occupant of the Chair and the Senator from New Mexico can remember when it was July. We found out that was too soon in the year. If you start a year in January, you started work, it was too quick to have everything done in July. So we had a completed year, since I have been
a Senator, when we went to October. We had to fix that up. And now October was thought to be ample time to get our work done.

Not a single appropriations bill has been sent to the President. The last time that occurred, it was excruciating last year after the attacks, was in 1995 during the infamous Government shutdown. You remember that, the shutdown period.

I come to the Senate because there has been a lot of talk about who is to blame for what. Frankly, I would like to suggest that the majority party and the majority leader bear the burden of running the Senate. They can run it with all the laments they can put forth and all the blame they can shed upon the situation, but the truth is, as difficult as it is, it is their job and the first and most important thing is that they are supposed to prepare and have a vote on a budget resolution. While it is not everything, to many things that transpire after it, it is a very big issue, a very big instrument.

So we find ourselves, as I indicated, where we are 5 days from the end of the year. All of those appropriations bills that are coming along that have not been addressed. We picked up October 1 as the starting date because the other ones that we put in run out. So if we do not do something by October 1, most parts of Government will shut down.

We found that out in 1995 when there was a cleavage between the Congress and the President. The President would not sign some bills because he did not like certain items, and clearly he pinned the blame on Congress for sending those bills up to him in a manner that he would not sign and closed down the Government, one piece after another. So it was a job that we had to get done.

I believe my friend—the new chairman of the Budget Committee who took himself out of the middle of a 2-year cycle because the Democrats got one additional Member to vote with them, so everything went to them—went their way. I believe the answer was it was just too hard to get a budget.

The occupant of the chair knows how difficult it was. He sat there for 1⁄2 of its time in existence. I was. I could have been the chairman, if we still keep a budget, will sit there for 1⁄2 of its time in existence.

Back in May, the majority leader blamed the lack of a budget on an evenly divided membership in the Senate. Early this month, the chairman of the Democratic National Committee—who has a propensity, because he speaks well, to put his nose in legislative business—and I said on the Sunday show, “Face the Nation”: We couldn’t do it because we needed 60 votes and we couldn’t get 60 votes.

Wrong, wrong, wrong. A budget resolution needs 60. The occupant of the chair, as a valued member of the Budget Committee, knows that. Every Senator knows that. There are many votes that are 60 votes because you did not get a budget resolution—because the law says you are punished in some instances. Some things can’t get passed with a majority, even though we require a majority. That the budget laws say without the budget, you have to have 60 votes, but not to pass a budget.

The budget should have been passed. We should have gone back to it on a number of occasions, and it should have been done.

Finally, just last week the chairman of the Senate Budget Committee, referring to an amendment that was voted on by the Senate on June 20, clearly implying it was the Senate budget, literally said here on the floor, and I quote: “...we got 59 votes for that proposal on a bipartisan basis. We needed a supermajority of 60.”

That is wrong. You needed 60 votes. Because you didn’t have a budget which did not permit you to do what he was suggesting, we didn’t get 60 votes. So that ought to be corrected. Everybody should know the fact we did not have a budget caused it; not that we were voting on a budget that needed 60 votes. I want to be very clear. We have not voted on a budget resolution in the Senate this year. This will be the first time in the Budget Act’s nearly 27 year history that the Senate has not adopted a budget blueprint.

No budget resolution has ever been brought to the Senate floor to be debated and voted on this year. The Chairman of the Budget Committee knows this, the Majority Leader knows this, and to even hint that we have considered a budget, is an absolute insult to those of us that have worked to make the budget process a functioning part of the fiscal decisionmaking mechanism here in the Senate.

I think I know what a budget is, and let me assure those who may care, it does not take 60 votes to adopt a budget in the Senate. Despite what the Majority Leader, the current Chairman, or the Democratic National Committee Chairman says.

In fact, of those nearly 32 budget conference resolutions the Senate has adopted over the years, almost half, fourteen, were adopted with less than 60 votes.

And last year, as Chairman of the Budget Committee, in an evenly divided Senate, I had considered and we adopted a budget resolution for FY 2002 which was tough and hard and in that evenly divided Senate, the Senate passed its budget blueprint by a vote of 65-35. So let us be clear, it does not take 60 votes to adopt a budget.

What other excuse is given for not adopting a congressional budget this year?

Unbelievable, the Chairman of the Budget Committee comes to the floor and says because the House of Representatives adopted a budget that used OMB assumptions or did not make 10 year estimates, that it was impossible for the Senate to adopt a budget.
Mr. President, to blame somehow the House of Representatives for adopting their own budget resolution as the reason why the Senate did not consider its own, simply defies logic.

That is why the Budget Act created a concurrent resolution, that is why the Budget Act directed Congress to adopt a House-passed and Senate-passed budget resolution. I have been in many conferences on budget resolutions, and they were tough, but the fact that I knew they were going to be tough, never coming doing my job as Chairman of the Budget Committee, and again the Senate has always adopted a budget resolution.

So what other excuse is made for the Senate not acting on a budget? The President’s budget submitted way back in February is the other excuse for us not acting here in the Senate.

This has to be the weakest of all excuses. This is not the President’s budget we are expected to adopt. This is not the Budget Act. This is the “congressional budget.”

We are an equal branch of government in this balancing act between the Executive and the Legislative over fiscal policy. I have never been shy about expressing differences with Presidents of either party over the years when I though their budget proposals needed modifications. The same holds true for President Bush’s executive budget plan transmitted to Congress last February.

But I have always guarded the congressional prerogative to produce a “congressional budget.” This is our responsibility under the Budget Act and I would also go so far as to say, under the Constitution. Because the President has a budget plan that might differ from one that Congress might produce, is certainly no reason for the Congress not to act. In fact, I would argue it is a reason for the Congress to act.

I do not think it should be any surprise that we begin a new fiscal year with no appropriation bills at the President’s desk to sign. The failure of this Senate to consider and act on a budget blueprint, to sit down and tough it out back in the spring, has made the appropriation process stumble and fall this year.

Last year in the aftermath of the September 11 attacks, Congress also did not pass regular appropriation bills enacted before the beginning of this fiscal year. This was understandable under the circumstances.

But I contend the major reason the appropriation process has failed this year, is because we were not willing to adopt a budget resolution. You have to go back to 1996 to find the last time no appropriations were enacted before the beginning of the fiscal year. A time under President Clinton and the infamous 26 days of government shut-down and 14 continuing resolutions.

No, there is no other way to say it and it is tough. This Majority Leader and this Chairman of the Budget Com-
mittee and this Senate failed in their one basic responsibility under the Budget Act—produce a budget resolution. And now everybody else is to blame but ourselves. I think those who take the time to understand what is going on here can see the hypocrisy of three of my colleagues and Majority Leader and Chairman’s statements.

THE ECONOMY

Mr. DOMENICI. Mr. President, I have a statement I want to start and then put the remainder in the Record, and if we get time in the next 2 weeks, I will come back a couple of times.

The economy is much in the air now. It is not as much as perhaps the Iraq situation. But the Democratic Party and their leaders want to make it the important issue and put the war in the backseat.

I don’t think that is going to happen because the people of this country know the war is an imminent problem. And, if we have a war, the amount of money we plan to spend in the budget will probably get changed in a mammoth way to accommodate the needs of the war.

When we had the war in the gulf the last time, our allies paid most of the bill. I recall looking at the formula that was drawn by the OMB. Actually, our allies just took the formula and said we are bound by the formula, and we had to pay the costs. Some of those paid as much as $13 billion for that war. That was our friend we were all arguing about which has a little hole. Here is our share. Japan didn’t enter that war. They wrote a big check. We didn’t pay much for that war. We don’t have such an agreement now. Maybe somebody will start thinking about it.

Let me talk about the economy.

Federal Reserve Board Chairman Alan Greenspan said recently the U.S. economy has confronted very significant challenges over the past year: Major declines in the equity markets, which none of us thought would ever happen. Many Americans thought it would go on forever. The equity market had ballooned out of all proportion. And people such as Alan Greenspan were giving us warnings. It did begin its downward trend and it still is continuing on that path.

To date, Dr. Greenspan said the economy had overestimated this set of blows very well—the blows being the investment spending, the retrenchment, the tragic terrorist attacks of last September. The Federal budget has been able to withstand that, and the economy has been able to withstand that.

The economy is not in great shape right now. But not in great shape either at this time are many individual problems in this country. Consumption is strong. Unemployment gains are creeping back up.

But to blame President Bush is pure unadulterated, partisan politics. For those who talk about it being his prob-
lem, the issue would be what would they do to fix it? Some would raise taxes by an enormous amount; or by repealing the cuts that were made. Nobody with their right mind about the economy would suggest that.

When you see that it is not in very good shape today, what would you do about it? We will blame the President. What would you do positive about it? A large group would say raise taxes. I find it hard to believe the President had to do that and came to that point, very many people would vote for it when they finally understood the negative consequences of that.

I want to mention every now and then look to a Democratic economist who is of renown, and is of the other party, and everybody knows who he is; that is, Democratic economist Joe Stiglitz. He was Vice Chairman of the Federal Reserve under President Clinton. He has written many articles and books on the economy.

He has indicated, and I quote: This economy was slipping, and it was slipping into a recession even before Bush took office as President and before the corporate scandals—

That we haven’t yet determined the breadth and number of them, but even before they started—

were rocking America.

That was earlier yet than when the President took office. He says we were moving into a recession. What we did were the right things to get out of the recession. We cut taxes, and we increased spending of things that would start the economy quickly.

We also at the same time, working with the Federal Reserve Chairman, got interest rates to come down. You remember how many times he cut them. And so you had the triad that would help a recession.

I wonder how bad it would be if we had not done that. I wonder how bad the economy would be if we had not cut taxes at the right time and if, in fact, we didn’t have Federal Reserve working in harmony reducing the interest rates, and if we had not spent some additional money, some which came because of the war costs.

So the economic growth has started slowing down. It started in mid-2000, well before the President took office. In 1997, more than 3 years before he was elected, you could begin to see, as you analyze corporate profits, they were coming down. This is 3 years before he went out on the steps and took the oath and became President of the United States.

Rather than call this a Bush recession, we ought to call it a Clinton hangover. If you want to use another word for each one so there is nothing negative about it, that would be all right.

In the late 1990s, we had a stock market boom and an investment boom.

Much of the rise in the stock market and investment was sustainable, but some of it was not.

We are now making up for the excesses of that period. We are finally
It seems as though for a few years there in the late-90s, some CEOs forgot about ethics and morals. They could say just about anything about their profits and no one was there to check. As long as the stock market was going up, no one seemed to care about ethics and morals, and laws were not enforced.

But now we're checking. Now the SEC job of making sure shareholders aren't getting ripped-off. Now we're going after the corporate criminals.

A few years ago, the federal government looked the other way. Now, thanks in large part to President Bush, that's not happening any more.

Having said that, I believe that when the economic history of this era is written, what will strike people is not that we had a recession but that things were not worse.

In early 2000 the NASDAQ hit 5000. If you had told people that two years later the NASDAQ would be treading water at about 1200, as it is now, they might have assumed we had gone through some sort of Depression. Well, as bad as things were last year, we did not have a Depression.

The policies we enacted over the past two years have made the economy better, not worse. If it weren't for those policies who knows how weak the economy would be now.

Over and over again we hear that our policies are bad for the economy because they turned surpluses into deficits. That is just not true.

I have staked a large part of my career arguing for fiscal discipline, much of it when it was unpopular, even with many members of my own party. But now is not the time quibble about the budget deficit.

The deficit this year will be about 1.6 percent of GDP. But look at the same point in previous business cycles. Back in the 1976 recovery, the deficit was 4.2 percent of GDP. In the 1980s it peaked at 6 percent. In the early 1990s it peaked at 4.7 percent. So 1.6 percent is not large considering we are in the early stages of a recovery and in a war.

If fiscal mismanagement were hurting the economy we would see rising interest rates. But interest rates are going down, not up. The rate on 10-year Treasury Notes is the lowest in 10 years. Homeowners are refinancing their mortgages at a record rate. Notice that those who claimed the Bush tax cut would lead to higher interest rates have been very quiet of late regarding that key point in their argument.

Yes, things could be better. But long term, our economic fundamentals are strong. Productivity is growing at about a 5 percent rate and new innovations are flying out of that growth.

Cutting taxes was the right thing to do and we did it just in the nick of time. I am proud of the work we did this year and last year in cutting taxes and my fellow Republicans and a few Democrats should be proud too.

I thank the Senate for yielding time to me, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. DOMENICI. Mr. President, I listened to my distinguished colleague with great interest. If my colleague wishes to speak for a few more minutes, I will follow my colleague. I say to the Senator, I was very interested in what you were saying.

Does my colleague wish to take some additional time?

Mr. DOMENICI. I say to the Senator, that is very nice of you to offer. When you want to speak on the floor, you take the gamble. I have some other things to do. I had to wait a little longer for my position. You can rest assured that since I think it is pretty good, the Senate will hear more before we go out. And they will hear another one on two subjects that have to do with the Senator and what, suggesting we ought to get on with doing things rather than blaming, which is what I think the American people would like.

Thank you very much, I say to the Senator.

Mr. WARNER. Mr. President, I thank my colleague. He is clearly one of the elder statesmen of this institution, with some almost 30 years of service in the Senate.

THE GRAMM-MILLER AMENDMENT TO THE HOMELAND SECURITY BILL.

Mr. WARNER. Mr. President, I rise today, with other colleagues, to support the Gramm-Miller amendment. I wish to address very specifically some provisions.

The overall amendment addresses the concerns which I had very early on and are outlined in a letter to the Governmental Affairs Committee. At that time, I said to the then-chairman, in writing, I had specific concerns. This particular amendment by Gramm and Miller has taken care of those concerns. It is for that reason I lend my support.

It provides the President with the authority he needs to organize our Government at this critical time to deal with these most unusual threats that are confronting our Nation today.

The Presiding Officer and I are privileged to serve together on the Armed Services Committee, and he full well appreciates the diversity and the unprecedented threats that face this Nation today.

I think Senators Gramm and Miller have gone about this in a very balanced way. I specifically thank the Senator from Texas and the Senator from Georgia because I approached them, asking them, Mr. WARNER, that they include a provision in their bill which I had devised with the help of my colleague from Tennessee, Mr. THOMPSON, my colleague from Utah, who is in the Chamber, and my colleagues from Virginia, Senator ALLEN, Senator ALLEN and Senator BENNETT have taken the lead in the high-tech caucus.

In the course of one of our periodic meetings on this subject, the group familiar to our attention that we needed to have this type of indemnification legislation, and once Senator BENNETT, Senator ALLEN, and I approached the Gramm-Miller team, they accepted this amendment. I wish to talk about it today and the importance of that amendment within the amendment that is on the floor now.

The legislation I am proposing with others would authorize the President to apply basically the same indemnification authorities now available to the Secretary of Defense, such that it can be applied to a much larger number of the departments and agencies of the Federal Government, as well as State and local—as well as State and local—governments so these entities of the Federal, the other agencies, State and about the business of contracting with our private sector and enable the contractors to have certain protections regarding the products which are the subject of the contract or the services, which products and services are directly contributing to the war on terrorism and the protection of our Nation.

It is quite interesting, I find there is an urgent need for this authority. It has existed in the Department of Defense for so many years. I was privileged to serve in the Department of Defense from 1969 through 1974 as Secretary and Under Secretary of the Navy. The Presiding Officer, I think, was on active duty at that time and had an exemplary career in the military.

But, for example, contractors today would not sell the chemical and biological detectors to a wider range of The Presiding Officer and others.

Some of our Nation's top defense contractors simply cannot sell these products to the other agencies, State and Federal, today. In the meantime, our vulnerability here in the United States, in my own experience, is of great concern to me.

We should give the President the option that he currently does not have of deciding whether other departments and agencies, Federal and State, should have this authority.

The liability risk has been a long-standing deterrent to the private sector to freely contracting with the Department of Defense, but now wishes to broaden its contracting with other departments and agencies.
Congress has acted in the past to authorize the indemnification of contracts. I find this history fascinating. For example, on December 18, 1941, just a short time after the tragic Pearl Harbor experience—2 weeks—the Congress enacted the Fireman’s Fund Act of 1941. By providing authority to the President to indemnify contracts, this legislation and its successor pieces of legislation have enabled the private sector to enter into contracts that involved substantial liability risk occasioned by their services and products.

Administrations since President Franklin Roosevelt’s day have used these authorities to indemnify or share the risk with defense contractors. This was required to jump-start the risk with defense contractors. This administration thus far has exercised its authority much as it has been used at the Department of Defense, carefully and thoughtfully, and only for those Federal contracting vehicles to which the contractor and highly volatile missile fuels.

It is true today for technology solutions required by agencies engaged in the war against terrorism. And that is the purpose of this legislation.

This war is going to be different in many ways—many ways—we cannot envision at this moment or in the future. For one, much of the Nation’s homeland defense and defense activities are going to be conducted by State and local governments. It is, thus, imperative to ensure that State and local governments can access vital antiterrorism technologies and not let the contractor be subject to undue risk.

To facilitate this, my amendment would require the establishment of a Federal contracting vehicle to which State and local governments could turn to rapidly buy antiterrorism solutions from the Federal Government. The President would also be authorized, if he deemed it necessary, to indemnify these purchases. Again, discretion rests with the President, and he, in turn, has delegated this authority to the Secretary of Defense. I presume if this legislation becomes law, he will delegate it to other heads of departments and agencies.

Again, I wish to emphasize two points: One, that this authority is discretionary. The President, on a case-by-case basis, may decide whether to indemnify contracts.

I expect the President will use the authority much as it has been used at the Department of Defense, carefully and thoughtfully, and only for those products the Government cannot obtain without the use of this authority.

The second point I want to emphasize is that indemnification is not in conflict with, or designed to limit, the liability. My legislation should not be seen as an alternative for tort reform, but merely as one tool that can be used by the President to ensure that vitally needed technologies for homeland defense are placed into the hands of those who need them.

During World War II and all subsequent wars, conflicts and emergencies in which the U.S. has been involved, we have needed domestic contractors to be innovative, resourceful and ready to support efforts at home and abroad. In 1941, the Congress wanted contractors to know that if they were willing to engage in unusually hazardous activities for the U.S. Government would address the potential liability exposure associated with the conduct of such activities. Our position should be no different now, I believe, with remarks about another matter connected with the Gramm-Miller amendment. There are many aspects in the creation of this new department of homeland defense that are unprecedented. Contentious civil service issues have largely driven the debate on homeland security in this Chamber in the past days and weeks. Over 170,000 employees from 22 agencies will be transferred to the new Department of Homeland Security, including an estimated 43,000 Federal employees represented by 18 different unions.

Since President Bush proposed the creation of homeland security, I have been involved in discussions with a number of my colleagues on both sides of the aisle on Federal employee unions and their members about the potential consequences to Federal employees. In order to successfully achieve this complex collaboration, I recognize the importance of the President’s request for increased flexibility in managing the new Department.

The uncertainty, however, of the administration’s intentions with additional labor and management flexibility has fostered mistrust, understandably so, among these Federal employees. The administration in no way should put into question basic labor rights and civil service protections for these employees.

The administration cannot ignore the impact this is having on morale, not only on the employees being transferred, but throughout the Federal workforce. With no firm commitment from the administration that collective bargaining rights will not be weakened outside of reasons directly related to national security, I cannot blame these Federal employees for being anxious.

I can personally attest to the dedication of civil service employees throughout the Government. There has never been reason to question that during a national crisis, Federal employees perform their duties first, setting aside personal grievances. Federal employees have been relocated, reassigned and worked long hours under strenuous circumstances with no complaints since the September 11 attacks. Their loyalty is first and foremost to their country. Federal employees have proven this time and again.

I have carefully considered several compromise proposals on the civil service provisions in the homeland security legislation. I am strongly concerned about initiatives that would weaken or interfere with the President’s authority under current law to exclude Federal employees from collective bargaining if those employees are primarily involved in national security work. Every President, since it became law in 1978, has exercised this authority in the interest of national security. There can be no argument that this new department’s primary purpose and focus is protecting our national security interests.

I would strongly encourage the administration to engage in further discussions with the Federal employee unions and assure some of their concerns. Information should be available on an ongoing basis concerning the administration’s actions and intentions regarding creation and management of the new department.

It is my hope that before the House of Representatives and Senate vote on the final version of homeland security legislation, some agreement be reached upon to lessen the tension, the fear that exists in the civil service ranks.

I have been privileged to have lived my entire life in Virginia, the greater metropolitan area, and have had the opportunity to be in the civil service in a number of positions, all the way from a letter carrier and forest firefighter, in 1943-1944, and in service to the Secretary of the Navy, where I was privileged to have, as a part of my department, several hundred thousand Federal service employees.

I guarantee you, the rank of Federal civil service is no less patriotic than the ranks of the military. They are fine, loyal, hard-working Americans. I am hopeful the distinguished manager of the bill and others can listen and take into consideration their concerns and somehow put into this bill those provisions which will lessen the fear and the concern among these brave citizens in our country.

Mr. GRAMM. Will the Senator yield?

Mr. WARNER. Yes.

Mr. GRAMM. Mr. President, no one has been clearer or more effective or more concerned about trying to protect the rights of people who work for the Federal Government than the Senator from Virginia. It would have been easy for the Senator from Virginia to simply look the other way, forget about the terrorist threat, and be on the other side of this issue. It has not been easy for the Senator from Virginia, the greater metropolitan area, and have had the opportunity to be in the civil service in a number of positions, all the way from a letter carrier and forest firefighter, in 1943-1944, and in service to the Secretary of the Navy, where I was privileged to have, as a part of my department, several hundred thousand Federal service employees.

I guarantee you, the rank of Federal civil service is no less patriotic than the ranks of the military. They are fine, loyal, hard-working Americans. I am hopeful the distinguished manager of the bill and others can listen and take into consideration their concerns and somehow put into this bill those provisions which will lessen the fear and the concern among these brave citizens in our country.

Mr. GRAMM. Mr. President, no one has been clearer or more effective or more concerned about trying to protect the rights of people who work for the Federal Government than the Senator from Virginia. It would have been easy for the Senator from Virginia to simply look the other way, forget about the terrorist threat, and be on the other side of this issue. It has not been easy for the Senator from Virginia, the greater metropolitan area, and have had the opportunity to be in the civil service in a number of positions, all the way from a letter carrier and forest firefighter, in 1943-1944, and in service to the Secretary of the Navy, where I was privileged to have, as a part of my department, several hundred thousand Federal service employees.

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Mr. GRAMM. Will the Senator yield?

Mr. WARNER. Yes.

Mr. GRAMM. Mr. President, no one has been clearer or more effective or more concerned about trying to protect the rights of people who work for the Federal Government than the Senator from Virginia. It would have been easy for the Senator from Virginia to simply look the other way, forget about the terrorist threat, and be on the other side of this issue. It has not been easy for the Senator from Virginia, the greater metropolitan area, and have had the opportunity to be in the civil service in a number of positions, all the way from a letter carrier and forest firefighter, in 1943-1944, and in service to the Secretary of the Navy, where I was privileged to have, as a part of my department, several hundred thousand Federal service employees.

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CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. Edwards). Morning business is closed.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The 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.

Gramm/Miller amendment No. 4738 (to amendment No. 4471), of a perfecting nature, to prevent terrorist attacks within the United States.

Nelson (NE.) amendment No. 4790 (to amendment No. 4738), to modify certain personnel provisions.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that at 3:45 p.m. today the motion to proceed to the motion to reconsider be agreed to, and without further intervening action or debate, the Senate proceed to vote on a motion to invoke cloture on the Lieberman substitute amendment, for H.R. 5005, the Homeland Security legislation.

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

Mr. REID. Mr. President, we are in a parliamentary posture where we will have a vote tomorrow at such time as may be determined, either that or an hour after we come in. The majority leader has said privately and has authorized me to say publicly that we will be willing to have that vote today, the reason being, of course, we are not going to get cloture. It is hard to comprehend that, but that is what they said. It would seem to me it would be in everyone’s best interest to see if that, in fact, is the case today, if, in fact, we are going to have the 30 hours and the 30 hours could run and it would not interfere with the duties of the other Senators, except those who wish to speak. Postcloture, a Senator has up to 1 hour.

There are lots of things going on at home. This is election time, as we know. It appears to me, as I said earlier today, we have had so many code words. This is a filibuster. We were told yesterday there were 30 speakers on this in the White House. The amendment ever had 30 speakers? There won’t be 30 speakers on this amendment, but there will be a lot of people moving around, stalling for time, which has happened now for 4 weeks on this issue.

I said yesterday, and I am beginning to believe more all the time, and it appears clear to me, that there does not seem to be any intention of either the White House or the Republican majority in the House or the minority in the Senate, of wanting to move this bill forward.

There is general agreement that the bill the Senators from Connecticut and Tennessee came up with is a bill we should have passed very quickly. There are problems that could have been resolved in the House and the Senate conference. For every day we spend talking about Iraq—and I think we should spend some time every day talking about Iraq and homeland security—it is 1 day we do not have to deal with the stumbling, staggering, faltering economy.

If we spend each day on issues focusing away from the economy and what needs to be done in the Senate, including doing something about terrorism insurance, doing something about a Patients’ Bill of Rights, which the President worked very hard on—we need to do something on a generic drug bill. There was the fiasco that took place in Florida 2 years ago. After the fiasco of all time with the elections, still nothing can be done because the House will not let us do anything. The energy conference is moving forward by tiny steps, but it is one of the few things happening.

It is obvious to me there is an effort to do everything that can be done so we do not focus on the economy. It is too bad. We can either formally come in later and offer the vote on the cloture motion set for tomorrow or do it today. But the offer is there.

For all the Senators worried about what is going to happen tomorrow, they should understand—and I understand there are some on the other side who do not even care if they are here or not because they really do not need them on a vote because we have to try to get 60 votes. But that is OK; we will still do everything we can. On this side we will do what we can to pass this bill. We will, as the leader indicated, work weekends, we will work nights, whatever it takes, to try to move forward on this bill. I am disappointed we are being told there will not be cloture on this until tomorrow.

That is, I repeat, only an effort to stall moving forward on this legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will respond to the distinguished Democratic floor leader by simply going back and reviewing the facts and setting out the obvious blueprint that will solve the obvious problem. I remind my colleagues we have been on this bill for over 4 weeks largely because of the debate on the Byrd amendment, and not a minute of that time was wasted because we were convinced by the major premise of the Byrd amendment. In the Gramm-Miller debate we deal with that problem by maintaining the power of the purse, which is the fundamental constitutional power of the Congress.

I am not complaining about the fact that we have spent the bulk of our time on an amendment that is still pending because the plain truth is what we learned something “we” were being Senator MILLER and I. We learned something. We concluded that Senator BYRD was right on and we changed our substitute. By the way, we have never voted on the Byrd amendment.

The plain truth is the great bulk of the time we have been on this bill we have been debating that amendment, and it is yet to be resolved.

I remind my colleagues that Senator THOMPSON, the ranking Republican on the committee, offered a simple amendment that said we ought not tell the President how to set up the White House. This amendment was partly controverted in terms of the President’s National Security Adviser and his terrorism adviser. That amendment was, sure enough, adopted. But only after 6 days of delay on the part of our Democrat colleagues. And then there were other delays before it was ever added to the bill.

The problem is, they have delayed this bill, and not us. Everybody is entitled to their own opinion. They are just not entitled to their own facts. The weaknesses our colleagues on the other side of this issue have is that their facts are against them. What is the old deal in law? When the facts are against you, argue the law.

What is the current holdup? The President of the United States, working with a Democrat and a Republican, has spent 4 weeks listening to things that have been said and concerns that have been raised, starting with Senator...
Byrd. We have made 25 major changes in the President’s proposal. In terms of the President’s personnel flexibility, we have limited his power to eliminate exactly the concerns that have been raised by every opponent of the President’s proposal out on this issue.

Does the fact that we have eliminated the ability to discriminate while preserving basic workers’ rights in terms of being judged on merit change the rhetoric of the debate? No. When people are debating, they still act as if the President could be arbitrary or capricious. But the point is he cannot be under our bipartisan substitute that the President supports.

We are at war. We were attacked on September 11. Thousands of our people were killed. The President has asked us to bring together 170,000 people in the Federal Government to help him prosecute this war and protect American lives.

After listening to many concerns, changing the President’s proposal, and adopting 95 percent of the Lieberman proposal Senator Lieberman says: You have taken 95 percent of my bill. What is wrong with it, if you are for 95 percent of it?

It is like a nice, shiny, fancy red truck—I remember our ranking member drove one in the campaign—still legendary—but it is only missing a steering wheel. What Senator Miller and I have done, working with several of our colleagues, is we have taken that truck and we have put a steering wheel in it.

In wartime, with American lives at risk, the President of the United States, asks only one thing: Give him a vote on his homeland security bill. Some people may view that as an extraordinarily extreme request. But I submit that there is not a State in the Union, whether it is Connecticut or Nebraska, Tennessee, New Jersey, or North Carolina, where you could go into any coffee bar in any drugstore or restaurant, and sit down and gather a group of people around and ask them the following question: When the President has asked for powers to defend American lives during wartime, should we give him these powers that he says that he needs? My guess is you would not have an organized political group in America that is actively lobbying on his behalf, of which I am aware.

There are some people who believe we ought to turn over American security to the U.N. I understand that view. I reject it. When the lives of my people are at stake, it is my responsibility and it is the responsibility of our Government. It is not the responsibility of our allies, not the responsibility of the U.N. I am not willing to delegate it to anybody else. But I respect differences of opinion.

But that is an easy issue compared to this issue. The reason it is an easy issue compared to this issue is that you cannot promote homeland security without having to make tradeoffs. On that is why I am here. We want to protect Americans. I would never say—and I don’t believe that my Democratic colleagues are—we are not concerned about national security. The problem concerns that it is not free. The problem is that there are tradeoffs. And the tradeoff is, if we are going to give the President the power to hire the right person, put them in the right place, and at the right time, if we are going to allow the President to have the tools to fight an enemy that did show up anywhere and could kill thousands of our people, we have to be willing to change the way we do business in a Federal bureaucracy. The Federal bureaucracy does not want to change the way they do business. Unlike Iraq, this is an issue where there are strong political forces that are against giving the President this power because they do not want to change the way they run their business.

Look, I am not going to stand up here and state that the position that the rights of public employees is morally inferior to the position that lives are more important than “workers’ rights.” I believe it is a law of order. But that is a moral judgment somebody else has to make.
Mr. LIEBERMAN. Mr. President, after the exchanges that were heard on the floor yesterday, I must say I hope after the exchanges that were heard on the floor yesterday, I must say I hope that I have the tools to finish the job. But these special interests that Mr. Specter and the underlying amendment and the underlying amendment offered by Senator Thompson, and even then it was 3 more days before it was added to the bill. All we want is to have a vote on the President’s proposal. We are going to get it through all the games. We can fill up the tree, as they say. We can use parliamentary procedure. We can try to get cloture and put the President in a box. But the American people are not going to be deceived because they are not stupid. In the end, they want the President to have the tools he needs. But they are never, ever going to accept not even giving him a vote.

I want to urge them once again, let us work out a compromise. I am going to in a moment—this is the last point I will make because others are getting ready to speak. I will outline for only a moment how this totally destroys the ability of the President to get the job done. I think most people, when they listen to that, and who are objecting, will understand what the issue is about.

But I have given the Senator in writing the changes he would have to make for the President to be able to accept his amendment and the underlying amendment. In the previous offer that was brought forward, we gave one simple change—preserving the supremacy of the President on national security. Every President since Jimmy Carter has had the ability in the name of national security to make personnel changes. But, remarkably, the Senator’s amendment and the underlying bill take away from President Bush powers that he had the day before the terrorist attacks.

"How many Americans would be absolutely stunned to know that in the name of homeland security we are debating a bill that takes away power from the President to use national security powers?"

I urge my colleagues to end this charade, reach an agreement, and let us have a bipartisan bill. If you are not willing to do that, you are going to have to give the President an up-or-down vote. There is no other way you are going to be able to do it without it. We can go through the process. We can vote on cloture tomorrow. We are not going to get cloture. We can do it next week. But in the end, the President is going to get a vote. But what the President wants is not a vote but a compromise with one constraint—the President has only got one constraint: Give me something that can work. Give me the tools to finish the job. But don’t give me tools that won’t work. He has a little bit harder time than his opponents because their proposals don’t have to work. His proposals do.

That is my plea. I yield the floor.

THE PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, the turning point that led us to what I thought was the inevitability that we...
would create such a Department because of the urgent need to do so post-September 11, 2001.

We worked together on a bipartisan basis with the White House. We accepted some of the changes that the White House wanted in legislation. We worked with colleagues on the committee and outside—Republican and Democrat—to improve our bill.

At the end of July, after 2 days in markups, the committee reported out the bill. I said at that point that 90 percent of our committee bill was in concert, was in agreement, with what President Bush had in his bill—90 percent.

Senator Gramm, after his considerable work on the Gramm-Miller substitute, said that—he raised me 5—95 percent of his substitute was the same as our bill.

So can’t we agree on that 5 or 10 percent on which we have disagreement? Can’t we agree together in the interests of the urgent national need for homeland security?

No one is delaying on this side. Right now, the reality is that the Senator from Texas is leading an effective filibuster against moving ahead on this bill. And why? Because we have not achieved a compromise on the major outstanding point of division, which is, how do you protect the rights of homeland security workers? It is a bipartisan compromise because one Senator, the committee Chairman, Senator from Rhode Island, has decided that he is going to find common ground in the interest of preserving the national security authority of the President while giving a little bit of due process to Federal workers. That is all this does.

I think there may be some others of our colleagues on the Republican side who would support this compromise because it is reasonable and it meets the test that the White House set up that they did not want any diminishment of the President’s authority. Under this compromise, there is none. Senator Nelson of Nebraska will speak about this in a moment. He is an architect of this proposal.

So the fact is, my friend from Texas does not have the votes. We have at least 51 on our side. And for that reason, he is not going to let us go ahead and vote. He asks that there be an up-or-down vote on the President’s proposal, but what he is asking for is something that is pretty much unheard of around here: Don’t allow any amendments.

The President is a good man. The Senator from Texas is a good man. But they are not infallible. None of us is infallible. The Senate has a right to amend. In fact, we are asking here for one amendment.

I wish the Senator from Texas were here today and speak in favor of the amendment which, together with Senators Chafee and Breaux, I have submitted for consideration to the homeland security debate.

Well, my good friend and colleague from Texas was in the Chamber because I have hunted with him. He is an excellent hunter. He is a great sharpshooter. Today his shots miss the target. The truth is, he is right on one point: The people of America are the right targets. They are not smart enough to know that you are not entitled to your own set of facts, but it is pretty easy for somebody to mischaracterize or restate the facts in a way that will make their case.

That is what happened on the floor this morning. If you want to attack an amendment, then refer to those who support the amendment as opponents of the President. Everybody knows Senator Chafee, Senator Breaux, and I are opponents of the President. This is an area where I thought we had agreement with the White House.

Let me characterize the facts not as I see them but as they have been stated by others. I refer, first, to the letter from Governor Ridge, dated September 5, to Senator Lieberman. I quote: The President seeks for this new department the same prerogatives that Congress has provided other departments and agencies throughout the executive branch.

Then there are several examples set forth as bullets. The third bullet point reads: Personnel flexibility as currently enjoyed by the Federal Aviation Administration.

He also adds the Internal Revenue Service and the Transportation Security Administration.

This proposal adopts the language of the Internal Revenue Service in connection with the reorganization of that Department. I thought we were in the position to offer exactly what was being requested. I am a little bit confused about this because I happened to be presiding the day my good friend from Texas appeared on the floor and it would allow the Senate to move forward and complete our business, pass this legislation, get it to conference with the House, and create a Department of Homeland Security to protect the American people.

There has been too much nonsense in this debate, too much irrelevancy, and not enough appreciation in this hour of urgent vulnerability for our country about how critically important it is for us not to do business as usual but to rise above the normal nonsense and do what we are supposed to do: to create a foreign and defense policy, which is to forget our party labels, to leave our ideological rigidity at the door, and come here and reason together in the interest of the beloved country we are privileged to serve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. Nelson of Nebraska. Mr. President, I appreciate the President's effort to be here today and speak in favor of the amendment which, together with Senators Chafee and Breaux, I have submitted for consideration to the homeland security debate.

The President is a good man. The Senator from Texas is a good man. But they are not infallible. None of us is infallible. The Senate has a right to amend. In fact, we are asking here for one amendment.

Mr. President, as a show of good will, I want to offer here on the floor now what we informally offered to the Senator from Texas yesterday off the floor. He asks for something that usually does not happen around here, which is, an up-or-down vote in the sense of without the right to amend. But just to show how anxious we are to move forward, Mr. President, I ask unanimous consent that immediately upon the disposition of Senator Nelson's amendment, Senator Gramm be authorized to offer a further second-degree amendment, which is the text of the President's proposal as contained in amendment No. 4738, and that the Senate then vote immediately on his amendment.

The PRESIDING OFFICER. The Senator from Nebraska will speak about this in a moment. He is an architect of this proposal.

So the fact is, my friend from Texas does not have the votes. We have at least 51 on our side. And for that reason, he is not going to let us go ahead and vote. He asks that there be an up-or-down vote on the President's proposal, but what he is asking for is something that is pretty much unheard of around here: Don’t allow any amendments.

The President is a good man. The Senator from Texas is a good man. But they are not infallible. None of us is infallible. The Senate has a right to amend. In fact, we are asking here for one amendment.

I wish the Senator from Texas were here on the floor because I would ask him, wasn’t he aware that the President’s proposal, in the House—the House-controlled House—didn’t get voted on without amendment? There were amendments offered. They improved it. The Gramm-Miller substitute changes the proposal the President initially made because that is the way this process works.

So if there is any inflexibility here, I say, respectfully, it is on the side of the Senator from Texas and those who stand with him. We are so close to having a reasonable compromise and a good bill to create a Department of Homeland Security. And he is right; the terrorists are out there. They are planning to do us damage. And we remain dangerously disorganized in the Federal Government.

One of the things our bill will do is to plug the gaps, close the inconsistencies, break down the walls that the investigation of the Joint Intelligence Committee has shown us contributed, I believe measurably, to the vulnerability that the terrorists took advantage of in September of 2001—September 11.

So I am sorry we are back to this futile, foolish debate. This is a good compromise, the Nelson-Chafee-Breaux compromise. Senator Nelson will speak to it in more detail in a moment. We agreed on a large part of the underlying bill. We have the same departments.

Let’s get this done and stop this inflexibility.

Mr. President, as a show of good will, I want to offer here on the floor now what we informally offered to the Senator from Texas yesterday off the floor. He asks for something that usually does not happen around here, which is, an up-or-down vote in the sense of without the right to amend. But just to show how anxious we are to move forward, Mr. President, I ask unanimous consent that immediately upon the disposition of Senator Nelson's amendment, Senator Gramm be authorized to offer a further second-degree amendment, which is the text of the President's proposal as contained in amendment No. 4738, and that the Senate then vote immediately on his amendment.

The PRESIDING OFFICER (Mr. Johnson). Is there objection?

Mr. Thompson. Mr. President, reserving the right to object, I have not had an opportunity to either consider the suggested unanimous consent request or to talk to my other colleagues, some of whom are not on the floor who are directly involved in these negotiations. So for that reason, at this time, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. Lieberman. Mr. President, that offer remains pending. I hope Senator Gramm will consider it. It says that the Nelson-Chafee-Breaux amendment be voted on first, and then we give Senator Gramm the opportunity to have the President's proposal voted on.

Now, is he worried that that means he might not have the votes for the President's proposal without the Nelson-Chafee-Breaux amendment on it?

I ask him to consider that because it would both give him what he asks for...
said, with regard to providing Presidential authority: 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.

He went on to ask his colleagues, if we believed it worked there, then why do we not believe it can work here? That is exactly what we have offered. Now we find that is not acceptable. I have already referred to the concern I have; that is, when the goalposts are moved and the rules change in the middle of the game or the circumstances around you continue to be in flux, how in the world can you ever meet the expectations of the other side?

What my colleagues and I have tried to do is offer a compromise that will bridge the gap to bring together that last 5 percent Senator Lieberman and Senator Gramm referred to, to close the gap, fill the last 5 percent, end the debate, and do what we need to do—vote to pass a homeland security bill so it can go to conference and we can have national security.

It has been suggested that perhaps we are not as interested in national security as we are in other interests. National security is not only the primary interest, it is the driving force behind the homeland security bill. It has been suggested that there is another interest, as though that is going to take away from national security.

That is not going to take away from national security because this amendment provides enough support for the President’s powers, the President’s authority to do what the President needs to do. It is consistent with what Governor Ridge has suggested, and it is consistent with what our good friend and colleague from Texas asked for on the floor of the Senate over a week ago.

Characterization is important. But the important thing the American people understand is that on the floor of the Senate sometimes losing becomes winning. While the same set of facts are stated there, they can be characterized in different ways. You have seen a characterization today that is different than what the facts truly are.

It is hard to find another interpretation from what my good friend, the Senator from Texas, has said on the floor of the Senate or what Governor Ridge has written very clearly in his letter.

It seems to me we can, in fact, close the gap, stop the debate, and move forward with legislation.

Senator Lieberman made a good point: In the Congress of the United States, it is rare that a bill that is introduced in one form is in that same form by the time it has completed its process. There are amendments. There are amendments because there are different ideas in which we try to approach these very important issues, to find legislation that will solve the problem.

This bill is different now than it was at the very beginning. I can tell you today that, if we can accept this amendment, we can, in fact, close the gap.

I have met with Senator Gramm. He is absolutely right. He has always offered to meet to discuss this or any other issue to see if we can close the gap. We are continuing to have discussions. I hope we are able to close the gap. But if the conditions change, it is very difficult to close the gap.

I hope we will be able to move beyond what appear to be partisan remarks this morning to what will be American remarks about how we can find a solution that is acceptable to Republican or Democrat, but to characterize it as an American solution to an American problem facing the American people. And it is the American way to debate, compromise, and ultimately come up with a solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. Thompson. Mr. President, I would like to respond to the Senator from Nebraska. As I understand his point, it is that his compromise, which is looked upon as the bipartisan compromise because a Republican has joined in it—what Senator Gramm’s efforts have done, along with Senator Miller, apparently is not looked upon as a bipartisan compromise, even though a Democrat has joined in that; that is just a matter of terminology—the Nelson compromise purports to give the President flexibility. What we have done is when the President has. He is absolutely right. The IRS has been mentioned in conjunction with this debate as one of those agencies where we have given the President flexibility.

What the Senator fails to point out is that also a part of that debate has been the discussion of other agencies where we have given the President much more flexibility than we have given the IRS.

The flexibility we gave the IRS was hotly contested and hotly debated, but the IRS had so many problems. They had spent billions of dollars trying to get their computers to talk to each other. We had hearings about their problems. This is one agency now. This is just one organization. Because of all the difficulties they had, we decided to give them flexibility with regard to pay, hiring, and some other items. But as a part of that, there was a procedure with regard to the employees union. It required, I believe, a written agreement, and it required, if an agreement was not reached, it had to go before the Federal Services Impasses Panel.

The Senator adopted those provisions and put it in the compromise and said: OK, we have given you what the IRS has. The only problem with that is we have given flexibility to the FAA, we have given flexibility to the Transportation Security Agency, we have given flexibility to the GAO, none of which require the head of those agencies to go before the Federal Services Impasses Panel.

It is only with regard to the IRS and a hotly contested compromise that we placed that burden on the leadership of IRS. In those other agencies where we gave additional flexibility, we did not put the impasses panel as a part of that. So our friends on the other side find one area where the people running the Department have to go through additional hurdles to interject any flexibility, and they adopt that one instead of the example we have given in other agencies.

What about that? Maybe we made the right decision with regard to the IRS and the wrong decision with the GAO, the wrong decision on FAA, the wrong decision on TSA. What is the right decision?

Let’s forget about the fact that it is 3 to 1. Let’s ask ourselves, what is the right decision?

I point out that we are not trying to fix one dysfunctional agency. Goodness knows, the Government is full of them. Instead of addressing them in a general fashion, what we have done is when they get so bad, they come before us and we give them something, some flexibility of one kind or another. But we are not trying to do that here.

What the President is trying to do and what the Gramm-Miller substitute amendment is trying to do is to pull together 170,000 Federal employees, requiring the coordination of 17 different collective bargaining agreements, 77 existing collective bargaining agreements—77 existing collective bargaining agreements—7 payroll systems, 80 different personnel management systems, an overwhelming task under any circumstances.

Are we to equate that with the IRS, especially in light of the fact we impose these same requirements on these other agencies to which we gave flexibility? The IRS example should not be the low water mark. The IRS example is the low water mark. That is the least flexibility we can give, less than what we gave to these other agencies and certainly less than what we should give the President when we are reorganizing an entire major section of the Government involving 77 different collective bargaining agreements, 7 payroll systems, and 80 different personnel management systems.

We are comparing elephants to pea nuts with what are left. We are left with a system that takes the crucible of the labor-management difficulties we have seen in times past where we spend months and years negotiating
items in these collective bargaining agreements, such as color of uniforms, whether or not the smoking area should be lit and heated, whether or not the cancellation of the annual picnic was in violation of the collective bargaining agreement. It took 6 years on an army base in St. Louis to resolve that one.

With regard to issues such as those, collective bargaining and the myriad levels of appeals and the indefinite amount of time it takes, all the way to the Supreme Court of the United States, if they can get that far, this compromise so-called takes that totally off the table—totally off the table. This compromise does not allow the new Homeland Security Department to make any changes with regard to labor-management relations under chapter 71 or with regard to appeals under chapter 77.

If one looks at page 3, at least in the copy I have, of the amendment, chapter 97, Department of Homeland Security, my friend from Nebraska and his colleagues establish a human resources management system. OK, sounds good so far because, goodness knows, we need to establish a new system. We have the failures of the past, the creations of the 1920s and the 1940s that some would insist we bring over lock, stock, and barrel into the 21st century.

Then it says: Any new system established under this subsection shall, one, be flexible and, two, be contemporary but not waive, modify, or otherwise affect a whole list of items, including labor-management relations, chapter 71, and the appeals section under chapter 77.

There are many other issues that are taken off the table, too: chapter 41, chapter 45, chapter 47, chapter 55, chapter 57, chapter 59, chapter 72, chapter 73, chapter 79. This bill takes all of those off the table and says you cannot touch them in your new system.

Mr. SPECTER. Mr. President, will the Senator from Tennessee yield for a question?

Mr. THOMPSON. I will be happy to yield.

Mr. SPECTER. I have been trying to determine whether the provisions of the Nelson-Chafee-Breaux amendment supplements the provisions to title 5 of 7103(b)(1) which says:

The President may issue an order excluding any agency or subdivision thereof from labor-management relations under chapter 71, and the appeals section under chapter 77.

Under existing law, the President can determine whether the provisions of the Nelson amendment supplement which is now in existing law.

I have been before people from the administration personnel department that the Nelson provision replaces existing law which then would leave out the language of national security requirements.

Mr. SPECTER. What is the determination of the bill, the Senator from Tennessee who has the floor, is whether this is a replacement for or an addition to?

Mr. BREAUX. Will the Senator yield?

Mr. SPECTER. Let me address it first, if I may.

I don’t know whether you would call it a replacement, total replacement, or an addition to. The significant thing, in answer to the Senator’s question, under the definition of the President’s authority from existing law. It is a diminution in this way: Under existing law, the President can make a determination that an agency or a subdivision of an agency is primarily involved in intelligence, counterintelligence, investigative, or national security work, and he can set aside the collective bargaining agreement.

Under the Nelson amendment, there is an additional requirement for the President. He must also go through the requirement of determining the mission and responsibility of the agency materially changed.

If you have a situation where a person was, in times past, doing a certain thing, and he is going to be brought into the new agency—and perhaps he is doing pretty much the same job; his job has not changed that much. What has changed is the world. September 11 changed it. Our heightened requirement in security changed.

That whole job where the President has not exercised his authority in times past might take on a different dimension, although he is doing the same job. In the first place, the President might not be able to make this finding. In the second instance, he would be setting himself up for another hurdle, for someone to challenge him in court.

I believe the amendment here has been one instance under current law where people have gone to court to challenge the President, and the President and persons got an arbitrary and capricious standard overcome. It is a tough challenge for a plaintiff to overcome, but the President has to go in there and made a determination as to how much he says. We are talking about national security. How much do you divulge? How much can you get in camera? All of that business? That is current law.

Under this, he has an additional establishment that he has to make that there is a material change, not with regard to the work of the agency, as in current law, but with regard to the majority of the employees working in that agency.

Mr. SPECTER. Mr. President, I agree with the Senator from Tennessee that there is an additional requirement. I might differ with him as to how substantial it is.

Mr. THOMPSON. If I could add to my argument under present law, the President has the authority to make that determination based on the primary function of an agency involving national security. Under this, national security does not appear. It says primary duty: intelligence, counterintelligence, or investigative work. It does not say national security.

What it does say is that it must be directly related to terrorism. Terrorism is important. But there are national security matters. You don’t necessarily have to do with terrorism. It is a limiting of the circumstances under which a President can make a determination.

Mr. SPECTER. Mr. President, if the international security consideration is stricken, there is an enormous difference. But that goes to the basic question as to whether this is in place of or in addition to. If there is a national security consideration, it is nonjustifiable. You cannot take appeals.

All the President has to do is come to court and say it is national security. If national security is not in the requirement, then you get into the arbitrary capriciousness, etcetera, on administrative appeals.

Perhaps, if I might have the attention of the Senator from Tennessee, I think in listening to the Senator and looking at this, in regard to what you are talking about, it is clearly not a replacement. It would be clearly redundant if it were not. It says: No agency shall be excluded as a result of the President’s authority unless the President establishes these things.

I don’t see how it could be more clear. I don’t see how it could rest side by side with current law.

If it is a “replacement,” it makes an enormous difference.

I was on the floor earlier in morning business saying if it is in addition to, it is a diminution of the President’s power but not very much because of the similarity. But if it is a substitute for—Senator NELSON is on the floor. If I might have leave of the Senator from Florida to direct the question to Senator NELSON or Senator LIEBERMAN, is it a substitute for or in addition to?

Mr. THOMPSON. If I may do so without yielding my right to the floor.

Mr. SPECTER. Presiding Officer. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, responding to the Senator from Pennsylvania, I will begin and still leave the floor with Senator THOMPSON. I think Senator NELSON may want to respond also.

It is my understanding that it is the clear intention of the sponsors of what
I call the Morella-Nelson-Chafee-Breaux amendment that it supplement, not replace, existing language. I say to the Senator from Pennsylvania, this concern he expresses is real. This is a concern that does not go to the intentions of the sponsors of the amendment. I have not talked to him, but let us reason together how we can make clear in this legislation, in this amendment, what the intentions are. It is not to alter this. If it were to continue—and I stand to be corrected by the sponsors of the amendment—if I were to describe what the amendment does in this regard, regarding collective bargaining rights, it says to the approximately 43,000 to 47,000 currently unionized employees of various departments that will be moved to the new Department of Homeland Security—and remember, some of these people have worked for decades; some have worked for a few years. The existing authority that this President, the previous President, all Presidents back to President Carter have had, to suspend collective bargaining rights in the interest of national security, these folks have continued to keep their jobs and be in unions because no previous President has believed that national security was inconsistent with their jobs being unionized.

All we are saying in this compromise amendment is to now simply because they have been moved from where they are—Border Patrol, Customs agents, FEMA, Coast Guard, civilian employees, whatever—they have been moved to the Department of Homeland Security, to take their right to belong to a union away, you have to show their job has changed.

The President has no declaré it and that is it. There is no appeal. That is my understanding of the intention of the amendment. But on the question, Is the amendment supplementary or does it replace, it is intended to be supplementary. We will work with the Senator from Pennsylvania to make that clear.

I wonder if the Senator from Tennessee would mind if the cosponsor of the amendment spoke.

Mr. THOMPSON. Without losing my right.

Mr. NELSON of Nebraska. If I might respond, I agree with my friend and colleague from Connecticut. It is our intent this be additional authority, an additional authority for the President to make a decision about national security. I agree also that were it to be appealed, the national security would just simply eliminate the appeal. I am confident.

If it is not as clear as it needs to be, we will certainly, with our good friend from Pennsylvania, help make it clear. Perhaps this will resolve the concern the White House has about this language. Our goal is to make it supplementary.

Mr. BREAUX. Will the Senator yield?

Mr. THOMPSON. I am happy to yield to the Senator from Louisiana.

Mr. BREAUX. I think it is very clear it is a supplement to the existing language in section 7103. If you read our amendment it says that:

No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1).

Section 7103(b)(1) is the existing language setting out what the President has to do. Ours is added to that. So it doesn’t replace the original 7103(b)(1). That is still intact. This is a supplement to that and is to be read in conjunction with it: the President makes that determination and it is his decision. It is like a teacher giving a test and the teacher is grading the test. The President in this case is the teacher and he grades his own test. He makes that determination and they are both to be read together, so national security is still a part of it.

Mr. SPECTER. Mr. President, I have one additional question, if I might.

Mr. THOMPSON. Without losing my right, I am happy to yield to my good friend from Pennsylvania to go ahead and vote on it. We could re-vote on it and then move on to the next step.

Mr. BREAUX. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have one additional question, if I might?

Mr. THOMPSON. Without losing my right, I am happy to yield to the Senator from Pennsylvania.

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Mr. THOMPSON. Without losing my right, I am happy to yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have one additional question, if I might?
make personnel decisions on national security grounds. We have just had a discussion with some of the people from the personnel department. We have been cited no authority as to the personnel decisions under chapter 43, chapter 51, chapter 52, chapter 75 and chapter 77. There are all provisions of the Gramm-Rudman-Hollings. The only exception for national security is one on labor relations—labor-management relations in chapter 71.

The question I have for the manager of the bill, the distinguished Senator from Tennessee, is whether he knows of any provision, statutory provision or other provision, which will give the President the authority to make personnel decisions on national security grounds?

Mr. THOMPSON. I know of no other. Obviously, if I am proven incorrect on that, we will supplement this record. But this is clearly the area—what points to the whole personnel issue—getting the right people in the right place at the right time with the right pay and the right responsibilities and the right accountability is what this is all about. Congress, Congress, Congress for many years ago, President Kennedy signed the bill—decided that the President should have the right, in personnel, with regard to matters of national security. And even broader than that: Intelligence, counterintelligence, and investigative, which is something I know my friend from Pennsylvania knows a great deal about—investigative.

I do not know whether that has ever been exercised, that particular provision, but it is a pretty broad provision. Every President since Jimmy Carter has exercised that provision. As far as I know, it has not been controversial.

This President行使ed it not too long ago with regard to the U.S. attorneys. There was a hue and cry that went up. It was said they may be prosecuting terrorists and we may have to move them around somewhat and all that. Well and good, but you included the secretaries.

Mr. SPECTER. That was on collective bargaining, was it not, as opposed to personnel?

Mr. THOMPSON. I beg your pardon?

Mr. SPECTER. The President exercised his authority under national security grounds on a collective bargaining issue as opposed to a personnel issue?

Mr. THOMPSON. You could say that, but it was under this (B)(3) authority on national security grounds.

Mr. SPECTER. Correct.

Mr. THOMPSON. The secretaries were a part of the unit and the assistant U.S. attorneys were exempt. I am not familiar with that concept. When I was assistant U.S. attorney, when I was brought in. I stayed as long as they wanted me or I wanted to stay. When they elected another President, I was gone. Nowadays we have a civil service system and folks there were trying to take it one step further and unionize.

In light of what is going on in the world, the determination was made it is not a good idea to have people prosecuting terrorists, bogged down with negotiating some of these things, some of which are quite foolish, we have been desirous about this and for worse, that decision was made.

The secretaries were incorporated because the President’s authority only goes to taking action with regard to agencies or subdivisions of the agencies, the suggestion was made to the union representatives at that time, as I understand it, in talking to the OPM people, let’s change the law so we can carve out secretaries. And they said: Oh, no, no, no. We don’t want to do that.

We do not like the issue framed just the way it is. That created some controversy with regard to the only time this President has exercised authority there. But, as far as I know, historically all the Presidents have exercised it. It happens to be controversial.

I simply do not understand. If we are going to debate whether or not this is merely supplemental, and we don’t really do anything with regard to the President’s authority, why in the world can’t we go back to the traditional authority that every President has had? What is the message we are sending to the American people? Do some of our colleagues distrust this President who seems to have the trust of the American people with regard to matters of life and death? From all the polls I read, I think he is doing the best he can. I think all Presidents always do the best they can. We rally around them in times of war and in times of great national issues.

Do we really want to be fighting for days on end as to whether or not you can say it is significant or you can say it is insignificant? You can say it is in addition to, you can say it is a modification, and you can say it is supplemental. But do we really want to carve out changes that make no sense at all? If it is not 40,000 union employees, it is 20,000—those who are in bargaining units? Only 20,000 are union members out of 170,000.

My colleagues who support the Nelson amendment would suggest that we put up these additional hurdles with regard to the President’s national security authority only with regard to homeland security. The area where he needs it most is the only waiver area which they would take away. The Labor Department is not affected by this. The Energy Department is not affected by this. It is only the homeland security area. I have great difficulty in understanding the wisdom behind doing that at this time.

Mr. BENNETT. Mr. President, will the Senator yield for a further question?

Mr. THOMPSON. I would be happy to yield.

Mr. BENNETT. Mr. President, I have heard this debate. It reminds me of why I didn’t go to law school. It is easier to hire people with the expertise of the Senators here who have gone to law school to try to explain this than it is to understand it yourself.

I have a very simple question coming from a more simple attitude about this whole thing. Is it not true that the President of the United States has said he will veto this bill if it has this in it? If that is the case, it doesn’t matter if we have 99.400-percent agreement on everything else. The legislation is not going to go forward.

I ask the Senator from Tennessee, who is in closer touch with the White House than I am, if it is not true that the President said he will veto this bill if this is in it?

Mr. THOMPSON. That is my understanding. I think it is important to understand the rationale behind that.

Mr. BENNETT. I am not challenging that. I don’t want to trigger another round of all the rationality. I want to cut to the question that the Senator from Connecticut asked: Why can’t we come together, as we always do with legislation, and get this thing moving forward? I ask the Senator from Tennessee, Should we be aware of the fact that the President or this President, as is his right under the Constitution, has made his intentions very clear? And shouldn’t we be paying attention to that as we make our negotiations as well as all the other issues that have been discussed on the floor about this bill?

Mr. THOMPSON. Yes. Indeed. I do not think any of us want to spend all this time and effort on something that basically we think ought to happen in terms of reorganization of an important part of Government for naught and go before the American people and say we have failed because we insist on the status quo with regard to managing this thing but not the status quo with regard to the President’s national security authority.

I can’t read the President’s mind. We learned that our CIA Director declared war to his people some time ago, and he is taking a lot of criticism and abuse, quite frankly, from some of our people who are our allies—one, in particular. I think in a particularly shameless fashion, in order to get re-elected in Germany, has said some things which I think is going to haunt the relationship between the United States and Germany for a while. In the midst of all that—what he is doing about the Iraq issue and not this one—I think it put the President in a difficult position when we are spending all this time debating.

Again, this is the one area where we do not have a status quo. Whether it is small, whether it is large, whether you slice it thin or you slice it thick, any way you cut it, it is additional steps that the President has to make, and additional opportunities for somebody to take it into court, and things of that nature.

I don’t think it says there is no basis for a President saying he is going to
veto something and I wouldn’t support him just because he threatened a veto. I am sure that I have opposed Presidents who threatened vetoes before. My attitude was to let them veto it because I didn’t think it was sound, or I didn’t think there was a rationale for it.

I am not afraid to say that one should look past that. I think it is going to be extremely difficult to go before the American people to explain why we insist on passing something that we know is not sound. But it is even more important that we look at the underlying rationale.

I have been on the Governmental Affairs Committee ever since I have been in the Senate. The thing I leave the Senate with—the sentiment, the idea, the notion, the feeling—is how difficult it is to make even a little change in the way Government works.

We have seen from Department to Department to Department overlap, duplication of billions of dollars wasted, $20 billion in 1 year, dysfunction, inability to incorporate information technology systems that private industry has been able to do for years, and human capital crises. We are going to be looking at each of our workforce in about 5 years. We are keeping the wrong people and losing the right people. And we can’t pay people what we ought to be paying them. We have seen all of that happen in the operation of government, services, money, and so forth. It will hurt us if we incorporate all of that into this new homeland security bill.

You take all of that history, all those GAO reports, all of those IG reports we have seen year after year saying the Government is a mess in many respects, and it cannot pass an audit. It is a management mess. People say “Tut, tut.” And you see an article in the paper every once in a while.

We bring them down and chastise them. They go back for another year. The next year they come back, they are still on the high-risk list and nothing has changed.

Take that in context then to the President. We are at war. We now perceive the need to organize our Government—at least a part of our Government—in a different way. We see that old systems in many respects simply need to be redone.

We have a President who the American people are behind and support, and we still can’t make any change in our system in terms of how we manage this new Department, in terms of a civil service system that Paul Volcker down at Brookings—it is not a conservative, liberal thing—Paul Volcker and everybody agrees is a broken system that underwhelms itself at every task it takes. And we still, at long last, even in light of this history of failure, even with the loss of thousands of Americans, who need on the ground, homeland security workers, in it, that the President probably would veto the bill.

The right people with the right pay and the right motivation and right accountability at the right place at the right time is what it is all about. Yet we are endangering—as we endanger as we speak—not being able to pass a bill to do one thing at long last.

I fear for my Government because if we cannot administer these departments, and we cannot make them run, we cannot get the right kind of people in the right places, none of this other stuff will work.

It all gets back to personnel. You say: Well, we’re OK 90, 95 percent. That 5 percent is the nut that holds the propeller on the airplane. It is just a little nut—bolt, let’s say—it is very small in weight in comparison to the weight of the airplane, but it is just what holds everything together.

It is a depressing situation when, in light of all this, at long last, we are hung up on some of these issues. The other side says: Well, you shouldn’t be hung up. You ought to agree with us. And we are saying the same thing. But I will just pass on the merits of the case for a moment.

We are not making much progress on doing things differently than we have done before, except with regard to the President’s national security authority—we ought to diminish that somewhat.

Mr. LIEBERMAN. Will the Senator yield the floor without losing his right to the floor for a moment?

Mr. THOMPSON. Yes.

Mr. LIEBERMAN. I thank my friend from Tennessee.

I want to take a moment to try to answer the very good question the Senator from Utah has asked which is, regardless of what our positions are on this Voinovich-Akaka bipartisan reform on civil service, it gives the President new authority to change civil service law. It asks that, as we have done quite successfully with the IRS—and it is done in the public sector all the time—the best way to get changes in work rules is to not shove them down the throats of workers: try to negotiate them.

So this bill says: Try to negotiate them with your workers. And if that does not work, send it to the Federal Services Impasses Panel, which has seven members, all appointed by the current President. So it is not a hostile bill.

In regard to the collective bargaining rights, we say now—and there is no appeal to the board I mentioned before. The compromise says the President has to make his case, incidentally, not just job by job; the order is he simply has to claim that the mission and responsibilities of the agency or subdivision have materially changed, as Senator Breaux...
said, and the majority of the employees within the agency are involved in national security work. That is final.

Incidentally, there has been one court case, as Senator Breaux said—we are going to get it, look at it, and maybe look in the Record—what said the substantive determination on a question of national security is not reviewable by a court.

Mr. Breaux. Will the Senator yield? Mr. Lieberman. I will. Mr. Breaux. I didn’t know we had the floor.

Mr. Lieberman. Through the courtesy of the Senator from Louisiana.

Mr. Thompson. The Senator does not have the floor. That is OK. I will be happy to yield to the Senator from Louisiana.

Mr. Breaux. I don’t want to belabor this any longer. But I say to the ranking member, there is only one case out of the 30 years where the President’s authority was ever challenged to do what he was doing to covering employees around. And in that case, which was a case in the U.S. Court of Appeals for the District of Columbia, on the question of whether the President had proved the reason for making the decision that the court said—I will have it printed in the Record.

The executive order under review cited accurately the statutory source of authority therefor, and purported to amend an earlier order that indisputably was proper. . . . The act does not itself require or even suggest that any finding be reproduced in the order.

I would say, in layman’s language, that basically said: Look, once the order was made, that President says I am doing this because it is a declaration that the court order. And that is the only decision that the court said—I will have it printed in the Record.

Since 1962, collective bargaining has been available to most federal employees. n1 In 1978, Congress enacted the Federal Service Labor-Management Relations Act, n2 the first legislation comprehensively governing labor relations between federal managers and employees. Congress did not, however, include the entire federal workforce within this regime. By September 1986, federal agencies from coverage: n3 additionally Section [725] 7101(b)(1) authorized the President, under specified conditions, to make further exceptions. The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that: (A) The agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work; and (B) The provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations. n4


n4 Id. § 7103(b)(1).

In 1979, President Carter issued Executive Order 12171 n5 which, after paraphrasing Section 7103(b)(1), eliminated a number of agencies and subdivisions from coverage. In 1981, President Reagan promulgated Executive Order 12559, which undertook to amend the 1979 order to exclude certain subdivisions of the United States. Appellee then instituted an action in the District Court for the District of Columbia.

We first must address appellants’ contention that the case is moot. In 1988, after the District Court ruled, the President issued Executive Order 12632, which provides for the same legislative exceptions that Executive Order 12559 does, and contains all that the court deemed essential. n14 Since [*296] the 1988 order conforms fully to the court’s standard, the question of whether any order exists.

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n17 Id. at 4.


In these circumstances, it cannot be said that the 1988 order has “completely and irrevocably eradicated the effects of the alleviation of the amendment of Executive Order 12559. n20 We accordingly put the suggestion of mootness aside and turn to the merits.


n20 Id. The Government urges us to dispose of all nonmaterial consequences by treating the 1988 order as a “curative act” and extending its vitality as such back to the date of the 1986 order. Id. at 4–5. It suffices to point out that curative governmental action is not to be given such retroactivity as to demolish its vitality as such back to the date of the prior law; legislation may not retroactively abolish vested rights); DeRodulfa v. Secretary of Interior, 293 U.S. 388, 55 S. Ct. 241, 79 L. Ed. 446 (1935) (where statute providing for a revocable, though effective, claim the annulment of Executive Order 12559. n20 We accordingly put the suggestion of mootness aside and turn to the merits.

n21 In Martin v. Mott, 25 U.S. (12 Wheat.) 19, 6 L. Ed. 537 (1827) (a militiaman objected to that object, would be in effect to make the presumption of regularity insulates demanding process or activity. In these circumstances, it cannot be said that the 1988 order has “completely and irrevocably eradicated the effects of the alleviation of the amendment of Executive Order 12559. n20 We accordingly put the suggestion of mootness aside and turn to the merits.

n22 Id. at 11.

n23 Appellees argue that the District Court improperly imposed upon the President a requirement that, at the time he exercises an authority conferred by law, the presumption is that he is exercising in pursuance of law. Every public official is presumed to act in obedience to his duty, until the contrary is shown; and a fortiori this presumption ought to be favorably applied to the chief magistrate of the Union. It is not necessary to aver, that the act which he may rightfully do, was done.

n24 Brief for Appellees at 13.

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n27 n27 Section 7103(b)(1) makes clear that the President’s authority under the Act’s coverage whenever he “determines” that the conditions statutorily specified exist. n27 That section does not expressly include the written findings into an exempting order, or indeed to utilize any particular format for such an order. The District Court, by mandating a presidential demonstration of compliance with the section, engratted just such a demand on the ** *.

n28 See text supra at note 4. We deem the familiar presumption of regularity decisive here. It “supports the official acts of public officers and, in the absence of a contrary showing, the courts will presume that they have properly discharged their official duties.” n28 This presumption has been recognized since the early days of the Federalist era. President Madison exercised a statutorily-conferred power to call forth state militiamen “whenever the United States shall be invaded, or when in his judgment Invasion is to take place from any foreign nation or Indian tribe.” n29 In Martin v. Mott, n30 a militiaman objected on the ground that the order did not show that invasion was impending. That Court had determined that there was an imminent danger of invasion. p31 The Supreme Court responded: It is the opinion of the Court, that this object being the purpose of the President exercises an authority conferred by law, the presumption is that he is exercising in pursuance of law. Every public official is presumed to act in obedience to his duty, until the contrary is shown; and a fortiori this presumption ought to be favorably applied to the chief magistrate of the Union. It is not necessary to aver, that the act which he may rightfully do, was done.


n30 25 U.S. (12 Wheat.) 19, 6 L. Ed. 537 (1827).
Mr. GRAMM. Will the Senator yield? The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. THOMPSON. I yield for a question.

Mr. GRAMM. Is our Senator aware, while our colleagues from Louisiana cites a court case that upheld the President’s power to grant a waiver under national security, that the Senator’s own amendment changes the criterion from national security to terrorism?

Mr. BREAUX. It does not.

Mr. GRAMM. That, in fact, the very standard that the court has upheld is a standard that he changes. It is clear to those who are looking at making this work that a standard based on terrorism is not as strong as a standard based on national security. So I think what we are seeing, over and over again, is one discussion but another reality.

I just ask the Senator if he is aware that part of what is being done is a change from the standard that gives the President the ability to waive on national security concerns to a standard to waive on terrorism concerns, where there is no comparable litigative, judicial interpretation it received in the District Court, nor, so far as we can ascertain, has any other court.

We hold that Executive Order 12559 is effective, and has been from the date of its promulgation. The judgment of the District Court was reversed, and the case is remanded for further proceedings consistent with this opinion.

So ordered.

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end result is exactly the same. Our language says that if the President makes a determination that these things exist, he can do whatever he needs to do in this area. The language in the existing statute simply phrases it differently, by saying the President can do this by a determination. The end result is exactly the same.

Mr. THOMPSON. May I ask the Senator, if the end result is exactly the same, why does he insist on proposing this amendment?

Mr. BREAUX. There are two different points to be made here. The first point is, the way the language was drafted it was intended to do the same thing by saying the President can take action if he does certain things. The answer to that question is, absolutely, yes. It is phrased differently. One is in the negative. One is in the positive. But the end result is that the President can do these things if he shows the following.

The amendment we have says, for the first time in history, you are not talking about moving 5 people or 10 people or 100 people; you are talking about moving thousands and thousands of people. Over 100,000 people are going to be moving thousands and thousands of people. Over 100,000 people are going to be changing their homes and their lives radically.

Mr. THOMPSON. Maybe we have finally heard the phrase “additional requirement.” You can argue that because this is such a massive job, we ought to hamstring the President a little bit or you can argue because this is such a massive job that we should not.

But the Senate is absolutely correct in that he has laid on an additional requirement. That is the only thing I think we have been trying to establish.

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

Mr. THOMPSON. I am happy to yield.

Mr. LIEBERMAN. Let me say something first and then ask the question. The effect of the Nelson-Chafee-Breaux amendment is to add these two criteria for a judgment by the President in the specific case of the 43,000 currently unionized employees who will be moved to the new Department of Homeland Security. That is all.

The reason it does that is there is some apprehension, even though they have been doing these jobs for years and no previous President has found they are inconsistent with national security and being a member of the union, they want the President to make that determination. But here is the point I want to make about the court case.

There is actually no lessening of the President’s authority because the underlying statute says in title 5 7103(b)(1).

The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter—

Which is the collective bargaining chapter.

Mr. GRAMM. Seventy-one?

Mr. LIEBERMAN. It is 7103(b)(1).

Then it says:

if the President determines that—

And in the current statute which relates to the entire Federal workforce, it says:

the agency . . . has as a primary function, intelligence, counterintelligence, investigative, or national security work, and the provisions of this chapter—

Collective bargaining—

cannot be applied to that agency . . . in a manner consistent with national security. . . .

The Nelson-Breaux-Chafee amendment adds two other factors solely with regard to the employees who will be transferred to the new Department: The missions and responsibilities, not of the individual jobs but the agency or subdivision of change, and a majority of the employees within the agency have an identifiable duties related to terrorism.

Here is the point I want to make as I read it. That is why I think there is not even a hair of difference between us in what we are saying. The basic operative point here is the language in the current statute—“if the President determines that.” It is up to the President to determine the standards under the current law and the two standards for employees transferred to the new Department that Nelson-Breaux adds. The Federal court has said the President’s determination under this statute is not reviewable. That goes not just for national security, it goes for the two basic underlying and the two additional requirements that are added under this provision for employees of the new Department.

This is not effectively appealable. In other words, Senators Nelson, Chafee, and Breaux tried to come up with an amendment which responded to the concerns expressed by the White House and our colleagues on the floor that in some way the committee’s bill in this regard was lessening the national security powers of the President by subordinating them to a committee determination. The Nelson-Chafee amendment to an appeal to the Federal Labor Relations Authority. We cut that out now.

I must say, I believe because we are so interested in getting this done we have been quite flexible on this side. I ask my colleagues on the other side, particularly the Senator from Tennessee, my read—

Mr. GRAMM. Will the Senator yield?

Mr. LIEBERMAN. In responding to the Senator from Tennessee, my reading of that section (2) is simply to restate the President’s authority, not only with regard to employees of the Federal Government within the United States of America and the District of Columbia but outside the United States of America and the District of Columbia.

Mr. THOMPSON. Mr. President, that is a big difference. I do not think it has anything to do with employees inside the United States of America. I think that section only has to do with employees outside the United States of America.

Mr. LIEBERMAN. I think that is right.

Mr. GRAMM. Will the Senator yield?

Mr. THOMPSON. Which would leave us, once again, in a situation where the President is having to make a new determination because there is “concern”—concern we did not have with regard to any of these other Presidents, but we have concern with this President at this time. One can argue it is minimal. One can argue it is almost the same.

We are creating some interesting legislative history here. I wonder how anybody can ever contest the President after this discussion, quite frankly, but if that is the case, why in the world do we want to announce to the world we want to spend 2, 3, 4 days arguing over whether or not to diminish the President’s authority a little bit or whether or not to put up an additional hurdle before him, when he is saying to us and the world—presumably, I do not know what this is supposed to mean, per-haps it will not be very onerous at all. It is just not right. It is just not right to diminish the President’s authority.
or to put up additional requirements of him at this time.

Mr. GRAMM. Will the Senator yield? The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. BENNETT. Mr. President, I have been here for an hour and a half now listening to this debate, listening to the arguments being made back and forth, and the conclusion I think I hear from the Senator from Louisiana and the Senator from Connecticut is an interesting one. It may not be the conclusion they really think they came to, but the conclusion I hear them saying, particularly in the final statements that took place, is they put this in the amendment to give the labor unions a sense of security but, in fact, that security is not there, so we can vote for a sense of security but, in fact, that sense of security is not there, so we can vote for the amendment with a clear conscience that they did what the unions wanted them to do so they would not feel nervous about being put into this new Department, but reading their interpretation of the law, they are saying it really does not make any difference.

The last comment from the Senator from Connecticut that even an arbitrary and capricious action by a President—and he made it clear he did not expect it to go back and forth, and he appreciated his graciousness in that, but then in a hypothetical, an arbitrary or capricious action by a President could still go unchecked under this amendment and, therefore, we ought to embrace it.

If that is, in fact, the case—I will look at it very closely with some help from people who are burdened with a legal education, as I am not—if that is, in fact, the case, I think the Senator from Connecticut has just exposed himself to a little criticism from the unions.

How can he have misled them into thinking he was doing something substantive on their behalf and at their behest if, in fact, it is not substantive and the President would get everything he wants?

Of course, the same question arises from the White House. If, in fact, the White House is seeing no substantive change and this is more of a cosmetic kind of thing, why are they threatening to veto it?

So I am now going to leave the floor and go to lunch. I have some time scheduled afterward when I will talk about something else, but I have found this to be a very interesting exchange. Without in any way attempting to diminish the sincerity, integrity, or intelligence of those who have engaged in the debate on both sides, I think I have a little like the indelible debate about the number of angels who can dance on the head of a pin.

If, in fact, as the Senator from Louisiana said and then the Senator from Connecticut summarized, the net effect of this amendment in this area is to not change the law or ultimately take any of the President’s power away—Mr. GRAMM. If that is the effect. Mr. BENNETT. The question arises, why are we doing it? Either there has been a misleading of the unions so they feel a false sense of security that they do not really get or there is, in fact, some substantive change that we are supposed to notice on this side of the aisle.

As I say, I do not challenge the intelligence, the integrity, or the motives of anybody who has engaged in this debate, but as a layman, standing here for an hour and a half, listening to the debate go back and forth, I draw that conclusion. I find myself quite perplexed over the intensity with which this battle has been fought if indeed this is where we are.

I see the Senator from Connecticut is on the floor, and I will be happy to yield to him for whatever comment he may wish to make.

Mr. BENNETT. The PRESIDING OFFICER. A Senator from Connecticut has requested the floor, and the Senator from Connecticut is on the floor, and I will be happy to yield to him for whatever comment he may wish to make.

Mr. BENNETT. Mr. President, I have been here for an hour and a half now listening to the argument going back and forth, listening to this debate, listening to the Senator from Connecticut talk about the number of an-
practice. I was called back in to testify, and it was made clear to me that this hearing was by no means going to be dispositive of the case; it would go on beyond that.

If there are additional hurdles being placed on the President’s authority in this Department by this amendment, in all good faith, with a sincere attempt on the part of my friends who are working on this amendment to try to come to a resolution, my hesitancy stems from that experience. If indeed some one decides he or she wants to pick a fight with the President and use those additional hurdles for some motive unconnected with national security, I am not comfortable giving them that opportunity, particularly when they do not have it now.

The argument is being made, they are being transferred into a new Department and so they need to be protected. The statement by the Senator from Connecticut, that I quoted back to him, if I materially it was right, is this being done to give them a sense of protection and comfort but that substantively it is not any different. It may very well be that at the end of the day, after it goes through the courts, it really will not be any different. The position taken by the Senators from Louisiana, Connecticut, and Nebraska will be exactly right. But if that day comes after 6 years of adjudication and fooling around, with a Department that must be able to exist when these situations were created in the first place.

Mr. NELSON of Nebraska. Will the Senator yield?  Mr. BENNETT. I am happy to yield, with the understanding I do not lose the floor.

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

Mr. BENNETT. Mr. Chairman, I suggest the Senator from Utah makes a good point in terms of not wanting this to go through an endless review process that will take years. It can take a substantial amount of time and tie in knots the entire operation. The reason that is unlikely, and most likely impossible, is the court case, the one case in 30 years, where it is made clear that if the President performs by making all the points that would be required by law, that is essentially nonreviewable.

All of my friends proposed that there are two additional requirements that can be met, as well, and if the President does the i’s and crosses the t’s and in good faith makes a determination that the court is not going to review it. It is important the court would not review it if he did not dot all the i’s or cross the t’s. I expect this President and the future President to do the right thing.

That being the case, there is absolutely no reason to believe this will be tied up in court or there will be endless appeals by those who feel aggrieved by the determination. That is why it is important, whether you transfer these individuals or you go with the status quo, this body in the past and I think this body today has dealt with establishing requirements that must be met so that when they are met, due process has been achieved, the courts are not going to meddle in this process, and they are not going to review the administrations of the Congress when it comes to national security.

Mr. BENNETT. Thank you.  Senator from Nebraska. But he comes back to the basic statement I made to the Senator from Connecticut. If in fact this is not really changing anything, and in fact there will be no significant delays, and if in fact the President has not lost any power, why is the amendment being offered? Why don’t you just say, if in fact nothing is going to change, we will not change it? And the issue that has been raised again and again is that the Senator from Texas put that exact statement in his amendment, he and the Senator from Georgia, that says nothing in this bill shall diminish the existing power of the President and the amendment before the Senate makes it very clear that statement has to go.

There has to be, by definition, some diminution of the power of the President. I remember in such few Supreme Court cases I have reviewed one situation where the Court was confused what Congress was doing—surprising the Court would ever be unclear what we do; it is always so clear. The Court would ever be unclear what Congress did in fact there will be no significant delays, and in fact there will be no reason to believe this will be a significant delay.

The whole reason we are creating the Department is so we will have faster response time, so we will have better procedures, and understanding. Anyone who has ever been involved in a major corporate merger? Immediately, the smiles start around the room as the question, whenever this subject comes up, to the executives that are talking about this Department.

I happen to find myself in front of groups made up of executives perhaps more often than not. I asked this question, whenever this subject comes up, to the executives that are talking about this major merger?

The first question: Have any of you ever been involved in a major corporate merger? Immediately, the smiles start around the room as the understanding of the implications of that question get through to them. They nod, yes.

I ask: Has it been a pleasant experience? In every case, the answer is no. Mergers are always difficult.

Here is a merger involving 170,000 employees in 120 countries, to some 27 different agencies, each with its own culture, background, personnel procedures, and understanding. Anyone who thinks Government employees live in a monolithic world, regardless of which agency they work in, lives in ‘Alice in Wonderland’. Every agency has its own culture and its own way of doing things, and it is almost impossible to get them to deal with each other.

Then I say to them: If you were tapped by the President to be the chief executive officer of this new agency and you were told the employees who came into the agency in the process of it being created brought with them, by
The language they strike says: . . . nothing in this act shall be construed to take away the statutory authority of the President to act in a manner consistent with national security requirements and considerations as existed on the day of the terrorist attack on September 11, 2001.

In other words, no matter what else this amendment said, if it had not struck this language, the President would have the same national security power after this bill became law that he had on that horrible day, September 11. But guess what. This language is stricken by the amendment of the Senators. If they were not changing the President’s powers, why did they strike this provision? They struck this provision because they may not know they are changing the President’s powers but the people who wrote the amendment are changing the President’s powers. And if they did not strike this provision, then everything they did in limiting his power would be nullified.

Let me just start with what they did. Let me remind my colleagues of something that the opponents of the President desperately want you to forget. The President, in terms of waiving these labor agreements that limit his power, what is it doing? He got it in the creation of the Department of Transportation, John Volpe, as he wrestled with those problems. I saw firsthand how essential it was for him to have flexibility in a variety of ways which the organized government employees unions did not want to give him. He got it in the creation of that Department by congressional mandate, and he was able to do what he was able to do by virtue of that.

I was not around, but I can read about the creation of the Department of Defense, which was on the scale that we are talking about here. It is not beyond the importance of our understanding how significant this challenge is going to be for us to recognize that the first Secretary of Defense committed suicide under the pressures of those many tasks. I yield the floor.

Mr. GRAMM. Mr. President, I do not know how much you learn by having this job, but one thing you learn is patience.

Let me say it is probably a good thing I didn’t get the floor earlier because I would have gotten up and accused my colleagues of insulting my intelligence. But now I realize that the authors of this amendment have not the foggiest idea of what this amendment is about or what it does.

Let me just start. There are a lot of points I want to make, but let me just begin with some English points. Before we get to legal points or security points, let’s just talk about the English language.

Our colleague from Nebraska said: I wouldn’t do the amendment if I thought it limited the President’s power. I would like to ask him to read the words of his amendment, on page 12, under the section that has to do with the President’s labor-management powers. Remembering the President has the power in the name of national security to not put people out of the unions. That is a made-up term that the opponents of the President use over and over and over again. It is totally false. Nobody can take people out of unions if they adhere to rules that inhibit the ability of the Department to do the job of providing national security. So the President has this exclusionary authority under the name of national security.

Our colleague from Nebraska, Senator NELSON, says his amendment does not reduce the President’s power. Let me start with the English language, and let me read line 10 on page 12. This is a heading, and the heading is: “Limitation On Exclusionary Power.” If it is not limiting the President’s power, what is it doing?

Mr. NELSON of Nebraska. Will the Senator yield?

Mr. GRAMM. Let me make my point. I have listened here for 2 hours, trying to get to the floor.

If this is not limiting his exclusory power, this is false advertising. It does, in fact, go on and limit his power. But that is not the end of it.

We have a new section heading, and what do you think the first words of it are? “Limitation Related To Position Or Employees.” Our colleague from Utah said he is not a lawyer and this is a hard debate. I am not a lawyer although I guess over the years you learn how to read legal documents. But I do know a little bit about the English language. When heading after heading after heading is about limitation of power, you are talking about limiting power.

Let me just start from the beginning because our colleague from Utah came over, listened to a lot of things that didn’t make any sense to him, and he made a point. The point was, either this was meaningless or the authors of the amendment are not explaining what the amendment does.

I will—certainly to my satisfaction, hopefully to others—convince people that this amendment does a great deal. This is not some cosmetic change, where members of organized labor are being deceived. It looks to me as if they wrote the amendment and they knew exactly what they were doing. Let me start with just some obvious points.

Besides the fact that the amendment is full of sections with the word “limitations” in the title, the amendment strikes the following language from the pending Gramm-Miller substitute. Let me read the language. You heard our colleague from Nebraska say we are not trying to take power away from the President. Let me read you the language they strike.

The language reads as follows: notwithstanding any other provision of this act . . . I think people understand English. That means no matter what this act says.
The reason we are debating it is the underlying Lieberman amendment and the amendment that is proposed by Senator Nelson take power away from this President that every President since Jimmy Carter has had.

We have a remarkable circumstance that terrorists have attacked America. They killed thousands of our people. We are writing a bill to give the President the tools he needs to fight and win the war. The first provision in this bill is to take away from the President powers that every President since Jimmy Carter has had. It almost sounds unbelievable. But believe it.

A second point that is interestingly enough even more unbelievable: Under this bill and this amendment, the members of Government who are moved into the Homeland Security Department would find themselves in a position that the President, in the name of national security, has fewer powers than he has got. That is shifting them in the right place, and moving them than he does at the Labor Department or the Office of Personnel Management or any other part of the Government. Interestingly enough, this amendment takes away from the President's emergency powers—not for the Government as a whole but only for the Department of Homeland Security.

My third point is that we have heard this talk about these court rulings. It is a very good point. But, unfortunately, it makes the case against their amendment. These court rulings are on the basis of national security. The Constitution gives the President power as Commander in Chief.

When the President in the past has made a ruling based on national security—Senator Breaux made the point, repeated by Senator Nelson—those decisions have not been judicially reviewable. They have been deemed not to be judicially reviewable. That is a pretty substantial power. But it is a power rooted in the Constitution.

Guess what they do with this amendment? They change the President's power so the President has the power to move only in terms of their waiver—not on the basis of national security but on the basis of terrorism.

Terrorism is not mentioned in the Constitution. Terrorism has not been litigated. Maybe it will be litigated and the power will be held. But the Office of Personnel Management, the experts in this area, the person who will probably be the Secretary, and the President of the United States, believe that changing the President's waiver power and basing it on terrorism rather than national security is a diminution of his power.

If somebody didn't think so, why is it being done?

Let me add my fourth point. We have heard a lot of discussion but let me try to get down to the facts. Again, we are all entitled to our own opinions. We are not all entitled to our own facts.

There are 20,000 union members among the 170,000 people who are going to be moved into this Department. There are 20,000 other people who are covered by collective bargaining. But they are not union members.

Under this amendment, rather than the President having his broad exemptive power to put the right persons in the right place at the right time, the President would now have to enter into negotiations. So we set up the Department. We are trying to get moving. We are trying to prevent another attack. We are trying to prevent Americans from dying. This is pretty serious business, in other words.

What does the new Secretary have to do? He shows up, and 170,000 people are moved. He comes into his office. What is the first thing he has to do under this amendment? Double the number of people at the principal ports of entry? No. Change the disposition of agents to keep nuclear materials from being brought into New York Harbor?

The first thing the President has to do is enter into binding arbitration with a labor union that represents 20,000 of the 30,000 people who work for the Secretary.

Under this amendment, 20,000 union members and their unions would negotiate on behalf of 170,000 people, and 20,000 of them aren't even members of the union.

Talk about a power grab—this is an extraordinary power grab.

Before the Secretary can do anything, he has to enter into binding arbitration with unions that are representing 20,000 of the 170,000 people in this Department, and only 20,000 of them are union members. He has to enter into a binding arbitration with those unions that will bind the work rules for 150,000 people who are not even union members.

What happens if the unions won't agree to the change in rules that would change the disposition of people in the Homeland Security Department? You get a terrorist attack? What happens? You have binding arbitration. So here we are trying to protect people's lives, and rather than sending agents where we need them to go, we are in binding arbitration.

Then a panel, which has the historic role of making decisions about whether a governmental department had the right to cancel a Christmas party or not, is now going to be making a decision governing the running of the Homeland Security Department.

Mr. SESSIONS. Mr. President, will the Secretary yield for a question on that point?

Mr. GRAMM. Yes. I would be happy to.

Mr. SESSIONS. Mr. President, I served in the Federal Government bureaucracy for about 15 years as a Federal attorney and as a U.S. attorney. Trust me, Federal employees, as Senator Bennett said, have tremendous rights.

I was rather shocked, in connection with some of the things Senator Gramm has been saying, to read some recent developments.

After September 11, is the Senator aware that the Customs Service wanted to require its inspectors—management—at 301 ports of entry to wear radiodetection pagers to help detect attempts to import nuclear and radiological materials across our borders, and that the National Treasury Employees Union—members of which are some of my good friends—objected saying that wearing the pagers should be optional? Did they avoid collective bargaining on the issue, which would have taken at least a year to resolve?

MR. GRAMM. First of all, I have to say to my colleagues that I am not aware of that case. But I am aware of the case at the Boston airport where Customs wanted to change the makeup of the inspection room to make it more efficient, and the National Treasury Employees Union appealed it to the FLRA, and they sided against Customs and the changes were not made.

I am also aware that when there was an effort by INS to put more agents at the airport at Honolulu because of the large number of flights coming in and INS inspectors were needed. In this case, the labor union representing the INS employees in Honolulu filed a case with FLRA saying it violated their contract to hire more agents. Guess what? The FLRA ruled in their favor. I know you may say someday you could get it straightened out. But what happens if by not getting it straightened out in time somebody's mama or somebody's child ends up being killed?

Mr. SESSIONS. Is the Senator aware that after September 11 the Customs Service signed a cooperative agreement with several foreign ports because we are concerned about ports being used to ship weapons of mass destruction here, and the best way to do it is to locate that as far from here as it gets here—that they signed a cooperative agreement allowing our inspectors to reinspect cargo abroad before it sailed here.

The Customs Service wanted to send its best agents to these ports because these are sensitive foreign assignments, and the National Treasury Employees Union objected, saying that internal union rules should determine who should be sent on these assignments, not the Customs Service management.

Mr. GRAMM. I am aware of the case where an effort was made, in terms of foreign deployment, to pick the most able people because you have a limited number of people. That decision was overridden by the FLRA. They said you had to send the most "senior" people in terms of seniority.

I would say these are exactly the kinds of problems the President is trying to deal with. The President is not trying to deny people the ability to pay union dues, if they choose. The President is not trying to discriminate against people based on race, color,
creed, national origin. The President is trying to put the best person in the best place at the right time. The Senator has just outlined several examples of where we have not been able to get the job done in the past, and even where the job has been done, that it has often been 14 months later.

The point is, these terrorists—and we know there are thousands of them—are not taking a sabbatical while we are having this debate.

Mr. GRAMM. Madam President will yield, in reference to Senator BENNETT's comments, merging these agencies is a difficult task. They come with different backgrounds and legal prerogatives and cultures that they have had. As a U.S. attorney, I represented every Federal agency in my district, which would include the Corps of Engineers, the Coast Guard, Treasury, Customs, the INS, the DEA, the FBI—every agency that was there. They all have a little bit different rules.

If we are going to form a new agency, we ought not diminish the President's power because it is going to be difficult enough as it is to bring this thing together in a coherent whole.

I believe the Senator is making a good point. I have listened to the debate that has gone on for some time. It seems to me quite clear that the amendments that have been offered—the objections that have been made to your bipartisan bill, the Gramm-Miller bipartisan bill—have been designed to diminish the Executive's ability to coordinate quickly that new critical agency for our defense.

I thank the Senator for his leadership on it. I think it is important. The President should not allow his office and the office of future Presidents to have an even more difficult time than we already have with personnel.

For example, I have had many agency heads come to me and ask me about criminality by Federal employees. And I would say: Why don't you just fire them? They would say: You don't know how hard it is. We have a criminal case. Please prosecute this case; otherwise, we will be years removing this person.

It is amazing sometimes for the public to learn how difficult it is to manage in a Federal agency. It is far more difficult than private agencies. In the end, it hurts good employees of which there are many of them out there. It keeps them from being promoted, and it undermines the ability of the agency to be effective.

I thank the Senator for his courageous leadership.

(Mrs. CLINTON assumed the chair.)

Mr. GRAMM. Madam President, let me finish up my remarks because I have spoken a long time.

Although I could give a lot of concrete examples, let me just give a couple of them: Under current law, the President has the ability, by declaring a national emergency, to change the work rules for the Border Patrol. And every President since President Carter has had that power. This amendment would take away these emergency powers from the President because under a current agreement which the Border Patrol operates, there cannot be any prolonged deployment of Border Patrol agents in areas that do not have a series of amenities, including dry-cleaning.

Under existing law, the President would have the ability to declare a national emergency and move Border Patrol agents to areas where there was a critical threat. He would not have that power under this amendment. Let me explain why.

In order for the President to be able to use his emergency powers, the President would have to find, after the Department is created, that the position and duties of the person had been materially changed. By the way, you guessed it, the first word of the heading on page 17 of that amendment is "Limitation."—"Limitation Relating To Positions Or Employees". Who are we limiting here? The President. Every one of these headings on limitation represents a limitation of the President's power.

Let me give you an example. A Border Patrol agent is a Border Patrol agent, and after the creation of this Department, they will still be a Border Patrol agent.

I asked that the amendment be changed to say that either the function had changed or the threat had changed. That proposal has not been accepted.

What it would mean here is that if the President tried to use his emergency powers to station a Border Patrol agent, on a prolonged basis, on one of the many areas along the border that did not have restaurants, churches, or dry-cleaning, there could not be a waiver to station them in that area. Now, it is another issue say to the President: OK, you have the unions, you have the National Treasury Employees Union, the Border Patrol agents, and you have narrow-mindedness in the unions. The police justifiably believe that it is in their interest to keep the power under this amendment.

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I thank the Senator for his courageous leadership.
I don't think this is going to confuse anybody. I know sometime later today and probably in the morning, someone is going to stand up and say: Well, don't the people who support the President want to bring the debate to an end and give the President a vote? If I don't believe the President is going to be deceived. It is easy to give the President a vote. All you have to do is to set a time when the President's proposal can be voted on. That is all you have to do.

Under these circumstances, we are not going to let business-as-usual practices in the Senate prevail. We are not going to let the President be denied an up-or-down vote on his proposal. It may be those who oppose the President will be successful. It may be they can defeat the President. It may be they can pass a bill the President has sworn to veto. It may be they can prevent the President from having a Department of Homeland Security in this Congress. It may be they can prevent the President from having a Department of Homeland Security bill, and if you can amend it first with an amendment confusing people as to what you are really doing, then they are off the hook. You all are not doing this because it is fun. Obviously, you have your plan in mind. I have mine.

The PRESIDING OFFICER. Is the Senator from Texas objecting?
Mr. GRAMM. I object.

Mr. LIEBERMAN. Madam President, do you have your plan in mind. I have a lot of problems, but one of them is not not understanding. I understand perfectly that if people could be convinced—there is no sense getting into the details. I think we have overcome it. It may be those who oppose the President wants an up-or-down vote on his bill, and we are going to hold out for that vote. If you can defeat the President, you have defeated the President. But we want an up-or-down vote, and the way we have things structured in a parliamentary sense, you would have to get cloture on their amendment to vote on it, and you are not going to be able to get it.

The PRESIDING OFFICER. The Senator from Connecticut.
Mr. LIEBERMAN. Madam President, I regret the objection of the Senator from Texas, and I fear what it reflects is an understanding that, primarily because of the courage of the Senator from Rhode Island, Mr. CHAFEE, who has created a common ground compromise preserving the President's national security powers and giving some, frankly, minimal due process to homeland security workers, that our friends on the other side do not have the votes anymore because they do not have the votes. They are going to filibuster effectively the adoption of a homeland security bill as amended by the Nelson-Chafee-Breaux amendment.
The Senator from Texas himself has said that 95 percent of his proposal is the same as our underlying committee proposal. The biggest difference between us is with regard to the rights of the homeland security workers and the right of the President to maintain national security powers. This compromise does it. I am disappointed—

Mr. GRAMM. Will the Senator yield so I can agree with him?

Mr. LIEBERMAN.—and I fear the Watergate steering wheel. The only adoption by the Senate of legislation that would create a Department of Homeland Security.

Mr. GRAMM. Will the Senator yield?

Mr. LIEBERMAN. I will, for a question.

Mr. GRAMM. It is true our bills are 95 percent the same. It is like you are giving the President this nice, new, shiny truck, only yours does not have a steering wheel. That is the fundamental difference. There is only 5 percent. It is like the plane that does not have the bolt that holds the tail on. That is the fundamental difference.

Look, we are not holding it up. We are ready to vote. Set the vote for Tuesday. Let’s have an up-or-down vote and see where we are.

Mr. LIEBERMAN. Madam President, in responding to the Senator, the vehicle that we would give the President has a great steering wheel. About the only thing that is probably changed is the color of the plastic on the rear lights. The differences, as elucidated in previous debate, are so minimal as to certainly be not worth blocking the creation of a Department of Homeland Security which is urgently needed because the terrorists are still out there. I see my friend from Nebraska on the floor. He is a lead sponsor of the amendment. He has been waiting a while to yield the floor and I am going to the hang of it—maybe slowly, but I am beginning to get the hang of it.

First of all, I am new to this Washington-style posturing and spinning doctoring, but I think I am going to take the floor and ask unanimous consent to print in the RECORD a letter from Governor Ridge, dated September 5, 2002, to Senator LIEBERMAN in which he says:

... the President seeks for this new Department some management prerogatives that Congress has provided other departments...
Then, Madam President, I do not need to enter—it is already a matter of record—the remarks of the good Senator from Texas in which he suggested that the current situation might be remedied by including the IRS formula that was included in the reorganization of the IRS.

I would not suggest for a minute that he opposes the President.

We have had some explanations or recharacterizations of what these document recharacterizations, does not change the meaning, but now what seems to have changed is the goalposts have been moved, the rules have been changed, and now in good faith we proposed what we thought the White House and others, who were suggesting we ought to do it differently, we thought, what they were asking for.

As with mischaracterizations, I think anybody today watching us would feel as if they have been watching a little bit of Alice in Wonderland. This is the only place I can imagine where if you have an amendment, you are an opponent of the President. I am not an opponent of the President. I do not oppose the President. I am here trying to find a way to get things done.

I would like to find the steering wheel for the car of the good Senator from Texas so that it is 100 percent complete, not 95 percent complete, as the example he gave before.

I say this by mischaracterization, but I am not persuaded by it, and nor will my colleagues be persuaded by it as well.

The Senator from Texas referred to page 12 of our amendment and read from it the language he said was now complete, not 95 percent complete, as the example he gave before.

Let’s move away from the heading and see what this particular provision does. It says no agency that is transferred to the Department will be excepted from the coverage of chapter 71 of title 5, United States Code 7103(b)(1).

What does that have to reference to? The President’s authority. It says the agency will not be excepted from the President’s authority. What does that have to reference to? The President’s authority. It says the agency will not be excepted from the President’s authority.

That is what the President’s authority this has reference to? It says that the President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines the agency or subdivision has as its primary function intelligence, counterintelligence, investigative or national security work, and the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and consideration.

It also says that the President may issue an order suspending any provision of the chapter or activity if some body is located outside of the United States and the District of Columbia. The truth is, this reference incorporates the President’s current authority. It does not exclude it. It does not change it. It does not limit it.

What I agree with, with which the Senator from Texas refers to that is set some additional tests the President ought to apply in making a determination. That is not limiting authority. That is saying these are the tests that ought to be considered and have to be considered before that the President has the same authority as before, but now it has a reference to dealing with there being a material change in the responsibility.

The good Senator has also made a suggestion maybe we ought to look at wording that says “or the threats have changed.” When the good Senator suggests a change to the existing law, he is not opposing the President, but when we make a suggestion, we are opposing. I think we have to use the same terminology and say we are both trying to improve the existing situation.

If the Senator from Texas makes a suggestion we add language, I am not going to suggest he is opposing the President. I am not even going to suggest he is opposing me. He is trying to make something he disagrees with better, but it does not make us opponents.

What we have heard today is a lot of discussion with a lot of hyperbole and change to the rules as we go along. Of course, I think anybody watching from the outside looking in will not be misled by this kind of spin-doctoring or this kind of labeling.

My hope is we can set aside partisan discussions and talk about the essence of what it is we are about. What we are about is finding a way to close the gap.

I have said to the Senator from Texas, and I say it again, if there is no language—and we are looking at this suggestion politize this war. When I read it in the paper this morning, now the President, the President is quoted in the Washington Post this morning as saying that the Democratic—the Democratic-controlled Senate is not interested in the security of the American people.

Senator Daschle was reading from the Washington Post. Unfortunately, though, he did not quote The Washington Post correctly and he certainly did not quote the President of the United States correctly. I ask the distinguished Republican assistant leader to see what he could do about working that out. It seems to me it would be in the best interest of the Senate and it would be in the best interest of those people who are concerned about some of the things that might take place tomorrow in the District to be able to go to their home in the suburbs or in the District or back to the States.

If the Senator is right that we will not get cloture—and if, in fact, we did get cloture, it would allow a lot of people not to be here because the 30 hours runs and, of course, we have one hour at a pop. I am not going to formally close this thread, but I ask the distinguished Republican assistant leader to see what he could do about working that out. It seems to me it would be in the best interest of the Senate and it would be in the best interest of those people who are concerned about some of the things that might take place tomorrow in the District to be able to go to their home in the suburbs or in the District or back to the States.

I rise today to make a few comments I really wish I did not have to make. Yesterday, the majority leader of the Senate made a very strong, impassioned speech. I missed most of it, but I caught a lot of it last night on “Nightline.” I caught a transcript of it and then I saw it again. I will read part of it. Senator Daschle said: I can’t believe any President or administration would politicize the war. But then I read in the paper this morning, now even the President, the President is quoted in the Washington Post this morning as saying that the Democratic—the Democratic-controlled Senate is not interested in the security of the American people.

Senator Daschle was reading from The Washington Post. Unfortunately, though, he did not quote The Washington Post correctly and he certainly did not quote the President of the United States correctly. I ask the distinguished Republican assistant leader to see what he could do about working that out. It seems to me it would be in the best interest of the Senate and it would be in the best interest of those people who are concerned about some of the things that might take place tomorrow in the District.
partisan politics. I do not think we should be attacking the President of the United States on a quote in the Washington Post, which may or may not be accurate. The way it was stated by Senator DASCHLE was inaccurate, and I am not President’s quote from the Washington Post which was alluded to, and then I will again read Senator DASCHLE’s quote and we will see directly they are not the same.

What the President said when he was in New Jersey on September 24 was: So I asked the Congress to give me the flexibility necessary to be able to deal with the true threats of the 21st century by being able to move the right people to the right place at the right time, so we can better assure America we’re doing everything possible. The House responded, but the Senate is more interested in special interests in Washington, not interested in the security of the American people. I will not accept a Department of Homeland Security that does not allow this President, and future Presidents, to better keep the American people secure.

The President goes on to say:

And people are working hard in Washington to get it right in Washington, both Republicans and Democrats. See, this is a partisan issue. This is an American issue. This is an issue which is vital to our future. It’ll help us determine how secure we’ll be. Senator DASCHLE, a Republican, Senator MIELD, a Democrat, are working hard to bring people together. And the Senate must listen to them.

That is what the President said, and to take out of that a statement that says the Democratic-controlled Senate is not interested in the security of the American people, is not what the President said. If someone is making a statement that receives a lot of attention, there must have been no indication to the press this is going to be a very important statement, and to make a statement misquoting the President of the United States on an issue like this and accuse him of politicizing the war, when the issue was homeland security. I think is a real injustice to the President of the United States and to the quality and flavor of debate we should be having in the Senate.

We should not be politicizing a debate dealing with war and talking about international repercussions. And there are repercussions when we make speeches, particularly when the Democrat leader makes a speech. I cannot help but think the headlines that came out of this speech came about some comfort for those who really oppose the United States policies or those who are opposed to formulating an international coalition the administration is presently trying to put together in the United Nations, in Europe, and in the Middle East.

This President, like his father, was trying to build an international coalition. I can’t help but think when they read that the Democrat leader of the Senate is accusing the President of politicizing the war and misquoting the President, that gives them a lot of justification for Saddam Hussein or others to say: See, I told you they are just politicizing this war. They want to do this for political purposes, when that was not what the President said.

Again, when I first heard of this I thought, well, let me find out what the President said, and a friend of the President’s, I am willing to defend him, Victor, to, a but I wanted to see what he had to say. I know the President very well and I said, I can’t believe he would say Senate Democrats are not concerned about national security because that is not factual.

But then when I read these comments, not only did he not say it, he didn’t say anything close to it. Then in the next sentence down he said:

And people are working hard in Washington to get it right in Washington, both Republicans and Democrats.

I wish Senator DASCHLE would have read that. I wish he would have read that he compliments both Senator GRAMM, a Republican, and Senator MILLER, a Democrat, and he never once said what was said on the floor yesterday. He never once said Senate Democrats are not interested in national security. He didn’t say it. But that was the attack that was made yesterday.

I just think of international repercussions, and I am thinking of this enormous challenge to build an international coalition, one that President Bush I was able to do in 1990 and 1991, an enormous coalition, but it was not easy to build. It is a coalition. I might mention Senator Kent Conrad, and they very successfully, in 1991, that dissipated over the next 8 years and is now gone. So President Bush, this President Bush at the present time, is trying to rebuild the coalition. Then to be attacked by the majority leader, misquoting him, I think is very inappropriate.

I also wish to make a comment about Vice President Gore.

Before I do that, I want to read another quote. This was made two speeches. I scanned both. I didn’t want to misstate what the President said. I like to be factually accurate. If I ever misquote anybody, it will be a mistake.

So I read the President’s speech that he made at another event. This goes to the same subject. I believe this was made on September 25th.

Right now in the Senate the Senate feels like they want to micromanage the process, and part of it, I tell members, they feel they have to have a pile of books this thick that will hamstring future administrations how to protect our homeland. I am not going to stand for that. I appreciate John’s vote on a good homeland security bill. And the Senate must hear this, because the American people understand it. They should not respond to special interests—they ought to respond to this interest: protecting the American people from a future attack.

Again, he didn’t say anything about the Democrat Senate not supporting national security.

But there was a real political statement made the other day. That was by former Vice President Al Gore. Again, I would like to think that Presidents and former Presidents and former Vice Presidents wouldn’t undercut the existing Vice President and Vice President on the floor—while they are trying to build coalitions. That is exactly what the former Vice President did. Former Vice President, Vice President Clinton did. To a group of Democrats or a group of people in San Francisco, had a lot of outlandish things to say.

I read—well, he is trying to garner support from the political left or right, which he has that right to do. But I would think he would have the dignity to try to maintain the dignity of the Office of Vice President and not undermine an existing administration that has a difficult challenge to try to rebuild a coalition. This is one of the things Vice President Gore said on September 23:

To begin with, to put things first, I believe we ought to be focusing on efforts first and foremost against those who attacked us on September 11 and who have thus far gotten away with it.

For Vice President Gore to say that is grossly irresponsible, and is very inconsistent. I might say, with some of the things he had to say in the past.

It is very troubling to me, when I look at the previous administration and what they did or didn’t do in response to previous acts of terrorism, for him to be blaming this administration for not being aggressive enough in fighting the war on terrorism, and I see terror, terror attacks that happened during Vice President Gore’s administration, President Clinton’s administration, and I look at the response they had against terrorism and I say, Where is it?

For him to be critical of this President when this President has made an aggressive effort to combat terrorism and basically eliminating it—going into Afghanistan, helped in liberating the Afghan people, dispersing al-Qaeda, going after and rounding up and killing hundreds of terrorists—for the Vice President to be critical of this administration is mind-boggling.

I remember when the U.S. Embassies were bombed in Kenya and Tanzania on August 7, 1998; 221 people were killed, including 12 Americans, almost all of those were employees of the United States. Five thousand people were wounded.

And what did we do? Well, we lobbed a few cruise missiles hoping maybe we would get Bin Laden and then we didn’t do anything else. That was in August of 1998. Yet we didn’t do anything, after that for the next couple of years; the previous administration did nothing.

And then the U.S.S. Cole was attacked on October 12, the year 2000; 17 U.S. sailors were killed; 39 were wounded. The entire ship could have sunk.

What did we do? Nothing. President Clinton didn’t do anything.

If, as it now appears this was an act of terrorism, it was a despicable and cowardly act. We will find out who was responsible and
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hold them accountable. If their intention was to deter us from our mission in promoting peace and security in the Middle East, they will fail utterly.

President Clinton, as a result of the bombing of the U.S. Embassies, on August 7 of 1998 said:

These acts of terrorist violence are abhorrent. They are inhuman. We will use all the means at our disposal to bring those responsible to justice no matter what or how long it takes.

That was President Clinton’s remarks, and I would assume Vice President Gore would agree with those remarks, but we didn’t do anything. And we didn’t follow up. We did lob a few cruise missiles, but we didn’t stay after Bin Laden. We could have. We could have sent some special forces. We could have sent some airplanes over there. We could have been very aggressive in trying to hunt down the people who killed hundreds of people in those two attacks, but we didn’t do it. We flat didn’t do it. As a result, some of the people who planned those two activities also planned and carried out the airplane bombings in the World Trade Center and the Pentagon in and the field in Florida—probably headed toward the Capitol—because we didn’t follow up. We didn’t pursue them as aggressively as we should have in 1998, 1999, 2000.

Then to have the former Vice President critical of this administration, that has moved aggressively to combat terrorism and go after the terrorism—

I am very troubled by that. Very troubled by it, indeed. We are all entitled to our opinions. We are all entitled to state what we think should be done. But I happen to be one who believes that when you are in a war, you should be working together and not try to undermine the President of the United States.

I am afraid, as a result of both the comments that were made by the majority leader and the comments that were made by the former Vice President, I think it does undermine our united efforts to combat terrorism and to go after those people who are directly responsible.

Finally, I want to make a couple of other comments. In dealing with the bill we have before us, Senator GRAMM has mentioned that he has an amendment, supported by the President, endorsed by Senator MILLER, to implement them for their work on this issue. Unfortunately, the amendment tree is filled. I don’t want to get too bogged down in the parliamentary jargon, but I am looking at this tree. I want to read a quote Senator DASCHLE once said in June. He said:

I announced at the very beginning of my tenure as majority leader I will never fill the tree to preclude amendments. I am going to hold to that promise.

That was made on June 10. I happen to be one who doesn’t like filling the tree, either. But this tree is filled and why is it filled? It is to deny people a vote, the Senator from Texas and Georgia having a right to a vote on their amendments next. They want to obscure it so we vote on other amendments first.

Then the issue of cloture—we are going to have a vote tonight or we are not going to have one. Well, the purpose of cloture is to deny them the vote and it is to falsely allude to—maybe people on this side of the aisle are filling the tree, which is false. We are not filibustering the Interior bill.

I said that, and I happen to consider myself a person of my word. I will let you know if I am filibustering a bill. The Senator from Nevada knows me pretty well. I will let him know if I am filibustering a bill. He will know it. No one is filibustering this bill. Well, “We are going to file cloture.” They know they have to get 60 votes for cloture. They won’t have it today and they won’t have it tomorrow.

The Senators from Texas and Georgia introduced the President’s package. It has been modified to accommodate a lot of Senators and to make sure we don’t have anything that would be intrusive to the Homeland tree. It has a lot of protections in it. It is a well-thought-out amendment and is very similar to many of the adoptions made in the House of Representatives. They are entitled to their vote. Will cloture deny them that opportunity? This amendment would not be germane postcloture. It would fall.

I have said repeatedly that they are entitled to their vote, and they are going to get their vote.

I urge my colleagues, we could do a lot better in legislating if we didn’t file cloture every other day, and if we worked together to come up with a reasonable alternative to allow people to vote on this alternative, to vote on the Gramm-Miller alternative, to vote on other alternatives and be finished with the bill.

The same thing with the Interior bill—if we had the various proposals dealing with fire, let us vote. That is what we are paid to do. Let us vote. I urge my colleagues, let us use the floor of the Senate to be accusing this President of politicizing the war; the Vice President as well. I think that undermines the Senate and is not worthy of debate in the Senate.

Mr. BYRD. Madam President, will the Senator yield?

Mr. NICKLES. I would be happy to yield.

Mr. BYRD. I just want to say this: I agree with what the Senator said in respect to the appropriations bills. We had this talk—that those of us who agreed on appropriations bills. He is ready to vote on them.

I hope the leadership will attempt to get some of the other appropriations bills up. Let us see who is holding up appropriations bills. We have to do the Health and Human Services bill. We have those. We have all of those bills backed up, and not a single one of the 13 appropriations bills has been sent to the Senate.

I thank the Senator for making that point. He is ready. Let us vote on those bills.

Mr. NICKLES. I appreciate the chairman of the Appropriations Committee. I do know that when we have appropriate servings we have disputes on amendments. The way to dispose of those amendments is not to file cloture because it won’t work. The way to dispose of those amendments is to, if you do not like it, move to table it, or accept it. Maybe you accept it, or drop it. But you deal with the amendment.

I am embarrassed that we have been on two bills for 4 weeks and we have made so little progress. We have spent the entire month of September, and the end of the fiscal year is next month, and we haven’t passed one appropriations bill this month—not one. We have only had three or four votes on each bill—both the Interior bill and the homeland security bill. That is pretty pathetic progress.

As a result, we have only passed three appropriations bills out of the Senate. It is maybe one of the worst records we have had in a long time. That is not acceptable.

I can’t help but think if the majority or minority would get together and say let us bring up these bills, move them quickly; let us table nongermane amendments; let us get our work done; that it would help make the process work a lot better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I, as every Senator who serves here, came to the Senate for the purpose of being a public servant and to try to do things that help our respective States and the country. That is why we are here. People at home, in many instances, are somewhat jaundiced of the process. They think things we do here are political, that we are in the nature of a private sense, and that we are really not here for the good of the country. I don’t want to believe that. But there were times when even I became suspect about what is going on here.

Tom Daschle, the majority leader of the Senate, came to the floor twice yesterday. He was concerned because blasted across the county in the newspapers is something that has not been said once, but during the last month the President of the United States has said on six different occasions—four times at fundraisers—that the Senate—specifically on occasion Senate Democrats—weren’t concerned about national security.

Mr. NICKLES. Will the Senator yield?

Mr. REID. I yield for a question.

Mr. NICKLES. I just want to correct the record and say I have scrutinized the President’s speech. And I have never seen the President of the United States—just gave it to the clerk—this quote comes from Monday. I looked at the President’s speech. I have the President’s speech. I will enter it into the RECORD.
But it did not say the Democratic-controlled Senate is not interested in the security of the people.

Again, we have to be factually accurate. If we are going to quote the President of the United States and accuse him of saying something he did not say that. Even the Washington Post didn’t say that. You can’t take only part of a newspaper, the part that says the Democrat Senate—I guess what was not in quotes. But it was read on the floor like it was quotes; like it was a direct quote from the President. The President did not say that. Even the Washington Post didn’t say it. You can’t say, well, the Washington Post had it wrong; that the Washington Post inferred that he meant the Democrat Senate. But that is not what he said.

When it is something of this significance, when it has international repercussions, and when it can undermine our efforts in trying to get countries such as Egypt, Jordan, Germany, Italy, and others to be on our side; to say the President said the Democratic-controlled Senate is not interested in national security, when he didn’t say it, is a real injustice.

Mr. REID. Folks listen. Listen. Six times within the past month—four times at the numbers—the President said the same thing.

When the majority leader came to the floor, he said a number of things.

First of all, he quoted correctly that at a fundraiser, Dowd, one of the Republican pollsters, was quoted, and I quote: ‘Number-one driver for our base motivationally is this war.’

Then, of course, we go to Karl Rove. Karl Rove, prior to the President being elected, no one knew who he was. We in Nevada knew him because he is from Nevada. But now everybody knows Karl Rove because he is known as the President’s closest confidant. Of course, in June a floppy disk was found at Lafayette Park, right across from the White House. No one has denied that Karl Rove said what was on this floppy disk. Basically, it said focus on the war. There is the key point that should be centered on White House decisions trying to do what I could to help our troops and their families. There is an old bridge over the Delaware River that says: Trenton, you’ve got to remember, everything they do must go to make sure America is a stronger and safer and better place. (Applause.) Congress can help. Congress needs to work hard before they go home. Congress needs to get some things done, which means a homeland security department, a budget that reflects our priorities. They’ve got to make sure they don’t overspend your money. They’ve got to remember, everything they do must go to make sure America is a stronger and safer and better place. (Applause.)

I want to thank Brigadier General Glenn Riechel for opening up this hangar and for inviting me to this base. I want to thank the people of the New Jersey Army National Guard for your hospitality. (Applause.) I’m here to talk about how best to make America a stronger country, a safer country, and a better country for all of us.

Thank the people of the New Jersey Army National Guard Aviation Support Facility, Trenton, New Jersey, thank you all for coming. (Applause.)

Mr. NICKLES. Mr. President, I will just repeat to my colleague, you may find a quote from the RNC, and I am sure we could find things from the Democrats. (Applause.) I think we should be quite partisan. What I stated was that the President did not state what was alluded to yesterday on the floor when the majority leader said that quote: the Democratic Senate is not interested in the security of the American people.

That is what he said. I am just saying, quite frankly, the President of the United States did not say it. I reviewed the entire speech. I ask unanimous consent to have that speech printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENT CALLS ON CONGRESS TO ACT

Army National Guard Aviation Support Facility, Trenton, New Jersey, September 23, 2002

The President: Thanks a lot for coming out this morning. It is my honor to be—it is my honor to be back in New Jersey. I want to thank you all for coming. I want to thank the people of the New Jersey Army and Air National Guard for your hospitality. (Applause.)

I’m here to talk about how best to make America a stronger country, a safer country, and a better country for all of us. Please do not overspend your money. Please let’s remember, everything they do must go to make sure America is a stronger and safer and better place. (Applause.)

I want to thank Brigadier General Glenn Riechel for opening up this hangar and for inviting me to this base. I want to thank all the Guard personnel who serve the United States of America. I want to thank you for your service. I want to thank you for your sacrifice. (Applause.) I want to thank your governor for being here today. I appreciate Governor McGreevey being at the steps of Air National Guard. One. I’m thankful for his hospitality. I appreciate him coming to say, hello, and I’m honored he’s here today to hear this speech. Governor, thank you for coming. (Applause.)

I appreciate members of the congressional delegation. Congressmen Ferguson, Saxon and Smith from New Jersey, thank you all for 4 weeks we have been trying to pass a bill for this President, whose chairman of the Republican National Committee is sending out this trash.

So I think we should debate the issues. I am proud of Tom Daschle for standing up and bringing attention to what is going on.

What is going on? That the No. 1 driver for the Republicans is the war. It should not be.
for being here. (Applause.) I want to thank Bob Prunetti who is the Mercer County Exec-utive, for greeting me here, as well. And I want to thank you all for coming.

Here’s my point of view: I want our people to work here in America. Any time some-body who wants to work can’t find a job, it means we’ve got a problem in this country. And we will not rest until people can find a work. A stronger America means a strong economy. A stronger country means that our good, hardworking Americans can put food on their families.

Now, we’re making progress. Listen, inter est rates are low, inflation is low, we’ve got the best, hardest workers and smartest workers in the world. We’ve got the ingredients for growth. But what has taken place so far is not good enough. And I hope that’s good enough for the Congress. What’s happen ing in the economy is not good enough for a stronger America. And Congress can help.

Listen, I come from the school of thought that says, if you’ve got an economic prob lem—and remember, for the first three quar ters of the year we were negative growth, the stock market started to de cine in March of 2000; economic growth started to show down in the summer of 2000; we were in recession in the first three quar ters of 2001. In order to make sure the country was strong, we pulled this package out of the nomic textbook, the package that says, if you let people keep more of their own money, they’re going to spend it on a good or a service. If they spend it on a good, a service, somebody will produce the good and service. And if somebody produces a good or service, some American is more likely to find work. The tax relief came right at the right time for our workers and jobs. (Applause.)

And if Congress wants to help in job cre ation, they need to make the tax relief per manent. They need to make the tax relief permanent so our New Jersey small busi-nesses and entrepreneurs can plan for the fu ture. After all, most growth of new jobs comes from small businesses all across America.

Congress also must understand they’ve got to pass an energy bill. You see, an energy bill would be good for the economy. An energy bill would be good for national security. We need an en ergy bill that encourages consumption—sic!—encourages new technologies so our cars are cleaner, encourages new renewable sources, but at the same time encourages in crease of supply here at home, so we’re less dependent on foreign sources of crude oil. (Applause.)

Congress needs to get some work done be fore they go home. And one of the most im portant things they can do is to pass an anti-terrorism insurance bill. See, we need an in surance bill to cover potential terrorist acts, so that hard hats in America can get back to work. It’s on my desk that we care more about the working people and less about the trial lawyers. We want a bill that puts the hard hats back to work, not en riches the trial lawyers here in America. (Applause.)

In order to make sure our country is stronger and our economy grows, Congress must be wise with your money. Notice I said “your money.” When it comes time to budget ing and appropriations, which means spending, sometimes in Washington they forget we’re spent our money, they’re talking about. You hear them talking about the government’s money. No, the money in Washington is not the government’s money, the money in Washington is our money. We want you to be careful about how we spend your money. And if Congress overspends, it’s going to be a prob lem for making America’s economy continue to grow. And so my message to Congress is: remember whose money you’re spending.

Now, one of the problems we have is that anytime we’re going to make spending, Congress has to set a budget. That’s what you do. The Senate hasn’t been able to do so. They don’t have a budget, which is why we’re going to overspend. See, every idea in Washington is a good idea. Everybody’s idea sounds good, except the price tag is generally in the billions. In Germany, the country is strong, we need fiscal responsibility in Washington, D.C. We need to make sure that Congress does not overspend. Without a budget, we don’t have a handle on spending. They set deadlines on you, when it come to paying our IRS, paying your taxes. There ought to be a self-imposed deadline in order to get a budget passed and to get bills passed. Now, because they haven’t been able to move, they’re going to send my desk soon what looks like what they call a temporary spending bill. And that temporary spending bill should not be an excuse for excessive fed eral spending. The temporary spending bill is an idea; they’re spending. A temporary spending bill ought to be clean, so that we don’t overspend as the economy is trying to continue to grow. What we need is fiscal responsi bility, fiscal sanity. We need to set priorities with your money. And the most important priority I have is to defend the homeland; is to defend the homeland from the bunch of killers who hate America. (Applause.)

It’s very important for the school children here to listen to what I’m about to say. You’re probably wondering why America is under attack. And you need to know why. We’re under attack because we love freedom, is why we’re worried. Sometimes we hate freedom. They hate and we love. They hate the thought that this country is a coun try in which people from all walks of life can worship an almighty God any way he or she fits. They hate the thought that we have honest and open discourse. They hate the thought that we’re a beacon of liberty and freedom.

We differ from our enemy because we love. We not only love our freedoms and love our values, we love life, itself. In America they’re everybody matters, everybody counts, every human life is a life of dignity. And that’s not the way our enemy thinks. Our enemy hates innocence, it’s in the name of a great religion. (Applause.) And as long as we love freedom and love liberty and value every human life, they’re going to try to hurt us. The most important job is to defend the freedom, defend the homeland—is to make sure what happened on Sep tember the 11th doesn’t happen again, we must do everything we can—everything in our power—to keep America safe.

There are a lot of good people working hard on our federal level and at the state level, a lot of fine folks here at the local level, doing ev erything we can to run down every lead. If we find a lead, we’re going on it—all within the confines and all within the structure of the United States Constitution. We’re chasing down every possible lead because we understand there’s a threat out there which hates America.

I asked the Congress to work with me to come up with a Department of Homeland Security, to make sure that not only can this administration function better, but future administrations will be able to deal with the threat we’ve got into the 21st century. A homeland security de partment which takes over the hundred dif ferent agencies and brings them under one administrative authority and not interested in the security of the American people. I will not accept a Depart ment which takes over the hundred different agencies and doesn’t care about the American people. I will not accept a Depart ment which takes over the hundred different agencies and is not interested in the security of the American people. I will not accept a Depart ment which takes over the hundred different agencies and is not interested in the security of the American people. I will not accept a Depart ment which takes over the hundred different agencies and is not interested in the security of the American people.

And people are working hard in Washing ton to get it right in Washington, both Republicans and Democrats. See, this isn’t a one time issue, this is an ongoing issue. This is an issue which is vital to our future. It’ll help us determine how secure we’ll be.

Senator Gramm, a Republican, Senator Moynihan, a Democrat, are working hard to bring people together. And the Senate must listen to them. It’s a good bill. It’s a bill I can accept. It’s a bill that will make America more secure. And anything less than that is a bill which I will not accept, it’s a bill which I will not saddle this administration and future administrations with allowing the United States Senate to micro-manage the process. The enemy is too quick for that. We must be flexible, we must be strong, we must be the United States military is concerned, either. I believe it’s a good bill. It’s a bill that America can give her all, that America can adjust its thinking about this kind of war.

And Congress can help in the second thing is, in the old days, you either lived close enough, as far as I’m concerned; and there’s no cave deep enough, as far as the United States military is concerned, either. I would have them all to know. I believe we form of our great country, I’m proud of you. I’ve got confidence in you. I believe that you can handle any mission. (Applause.)

But the best way to secure our homeland, the only sure way to make sure our children are free and our children’s children are free, is to hunt the killers down, wherever they hide, is to hunt them down, one by one, and bring them to justice.

As far as I’m concerned, it doesn’t matter how long it takes. See, we’re talking about our lives, we’re talking about our children’s lives, we’re talking about our country’s salvation, either. I want to adjust our thinking about this kind of war. And so our most important job is to better keep the American people secure. (Applause.)

And people who are working hard in Washing ton to get it right in Washington, both Republicans and Democrats. See, this isn’t a one time issue, this is an ongoing issue. This is an issue which is vital to our future. It’ll help us determine how secure we’ll be.

I think this is the kind of war than our na tion has seen in the past. One thing that’s different is oceans no longer keep us safe. The other thing is, in the old days, you could measure progress by looking at how many tanks the enemy had one day, and how many he had the next day, whether or not his ships were floating on the sea. It’s a dif ferent kind of war. And America has begun to adjust its thinking about this kind of war.

This is the kind of war that the leaders of the enemy hate. They go into big cit ies—as I mentioned, caves—and they send their people to their suicidal death. That’s the kind of war we’re having. It’s not meas ured in equipment destroyed, it’s going to be measured in people brought to justice. And we’re making progress. I had made it clear to the world that either you’re with us or you’re with the enemy, and that doctrine still stands. (Applause.) And as a result of that, American military and law enforcement offi cers of other countries, we’ve arrested or

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brought to justice a couple thousand or more. Slowly but surely, we’re finding them where we think they can hide.

We brought one of them in the other day. He thought he was going to be the 20th hijacker, or at least he was bragging that way. I don’t know if he’s bragging now. But, see, he thought he was immune, he thought he was invincible, he could never be caught without the long arm of justice. And like many—about the like number haven’t been so lucky as the 20th hijacker. They met their fate.

We’re on the run, and we’re keeping them on the run. They’re going to be—as part of our doctrine, we’re going to make it—no place for a wild one, no place for a wild one, no place for them to hide. These are haters, and they’re killers. And we owe it to the American people and we owe it to our friends and allies, we owe it to them, no matter where they try to hide.

And that’s why I asked the Congress for the largest increase in defense spending since Ronald Reagan was the President. I did so because I firmly believe that any time we commit our troops into harm’s way, you deserve the best pay, the best training and the best equipment. (Applause.) I also asked for a large increase because I wanted to send a clear signal to the rest of the world that we’re in this for the long haul; that there is no calendar on my desk that says, by such and such a day we’re going to quit, that by such and such a day we will all have grown weary, we’re too tried, and therefore we’re just going to give up.

That’s not the way we think in America. See, we understand obligation and responsibility. We have a responsibility to our children to fight for freedom. We have a responsibility to our citizens to defend the homeland. And that only means—not only means dealing with real, immediate threats, it also means anticipating threats before they occur, before things happen. It means we’ve got to look out into the future and understand the new world in which we live and deal with threats before it’s too late.

And that’s why I went into the United Nations the other day. And I said to the United Nations, we have a true threat that faces America; a threat that faces the world; and a threat which diminishes your capacity. And I’m talking about Iraq. That country has got a leader who has attacked nations in the neighborhood; a leader who has killed thousands of people; a leader who is brutal—see, remember, we believe every life matters, and therefore we expect to be told whether or not the children are learning to read and write and add and subtract. And if we find they’re not, if we find there are no schools or libraries and the health care systems are just shuffling through as if they don’t matter, we must challenge the status quo. Failure is unacceptable in America. Every child should be left behind in this great country. (Applause.)

A better America, a better America is one which makes sure that our health care systems are responsive to the patient and make sure our health care systems, particularly for the elderly, are modern. We need prescription drug benefits for elderly Americans, and these must be reformed, must be made to work so that we have a better tomorrow for all citizens in this country. (Applause.)

A better America is one that understands as we’re helping people go from dependency to freedom, from welfare, we must help them find work. A better America understands that when people work, there is dignity in their lives. A better America is America which understands the power of our faith-based institutions in our churches and synagogues and mosques that we find universal love and universal compassion. (Applause.)

You may think it’s really interesting about what’s taking place in America is this: the enemy hit us, but out of the evil done to America is going to come some incredible good, because of the nature of our soul, the nature of our being. On the one hand, I believe we can achieve peace. Oh, I know the kids hear all the war rhetoric and tough talk, and people say, ‘I’m not a warmonger. I’m a pacifist. I’m a person who thinks peace.’ I know the kids hear that, and I know the message of peace of ‘Be compassionate, be kind to others.’

But we’re not going to relent because my desire is to achieve peace. I want there to be a peaceful world. I want children all across our globe to grow up in a peaceful society. Oh, I know the hurdles are going to be high to achieving that peace. There’s going to be some tough decisions to make, some tough action for some to take. But it’s all aimed at making America safe and secure and peaceful, but other places around the world, too. I believe this—I believe that if our country—and I believe that if our country—and I believe that if our country and if we fight terror wherever terror exists, that we can achieve peace. We can achieve peace in the Middle East, we can achieve peace in South Asia, we can achieve peace in South Asia.

No, out of the evil done to America can come a peaceful world. And at home, out of the evil done to our country can come some incredible good, as well. We’ve got to understand, in America there are pockets of despair and hopelessness, places where people hurt because they thought America is meant for them, places where people are addicted. And government can help eradicate these pockets by handing out money. But that’s not the way we think in America. That’s just like you’d just like you’d have a outcomes in people’s hearts or a sense of purpose in people’s lives. That’s done when neighbor loves neighbor. That’s done when this country helps make a peaceful world where a neighbor just like you’d like to be loved yourself.

No, out of the evil done to America is coming some incredible good, because we’ve got children growing up in places that they’re part of a part of a faith-based institutions or charitable institutions—citizens all across this land who have heard the call that if you want to fight evil, do some good. If you want to resist the evil done to America, love your neighbor; mentor a child; put your arm around an elderly citizen who is shut-in, and say, I love you. start a Boys and Girls Scout troop; go to your Boys and Girls Clubs; help somebody in need.

No country in this country has heard the call. This country is a country full of such incredibly decent and warm-hearted and compassionate citizens that there’s people across New Jersey and across America who without one government act, without government law are in fact trying to make the communities in which they live a more compassionate and compassionate and loving place.

Today I met Bob and Chris Morgan, USA Freedom Corps greeters, who coordinate blood drives right here in New Jersey for the American Red Cross. Nobody told them they had to do that. There wasn’t a law that said, you will be a part of collecting blood. They did it because they wanted to make America more able to address emergency and help people in need. Whether it’s teaching a child to read, whether it’s delivering food to the hungry or helping those who need a housing, you can make a huge difference in the lives of our fellow Americans.

See, societies change one heart, one conscience, one soul at a time. Everybody has work and everybody matters. No, out of the evil done to America is going to come a compassionate society. (Applause.) Now this great country will all go on. We’re made out of. This great country, by responding to the challenges we face will leave behind a legacy of sacrifice, a legacy of compassion, a legacy of vision of decent for future generations of people fortunate enough to be called an American.

There’s no question in my mind—I hope you can tell, I’m an optimistic fellow about our future. I believe we can overcome any difficulty that’s put in our path. I believe we can cross any hurdle, climb any mountain, because this is the face of the earth, full of the most decent, hardworking, honorable citizens. We say God bless you by God bless America. Thank you all. (Applause.)

Mr. NICKLES. I read the speech. Read the next paragraph. I have read the one paragraph. Read the next paragraph. The Senator from West Virginia and the one we read the two relevant paragraphs again:

The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people.

He didn’t say the Democrats in the Senate. He didn’t say what was stated on the floor. Let’s be factual. Let’s be honest. Let’s say exactly what was
said. Let’s not construe and say something else.

Let me go on. The President said: I will not accept a Department of Homeland Security that does not allow this President, nor future Presidents, to better keep the American people secure.

And people are working hard in Washington to get it right in Washington, both Republicans and Democrats.

That is in the President’s speech. That doesn’t sound very partisan to me. See—

This is again the President: See, this isn’t a partisan issue. This is an American issue. This is an issue which is vital to our future. It will help us determine how secure we’ll be.

Senator Gramm, a Republican, Senator Miller, a Democrat, are working hard to bring people together.

That is not a partisan speech. That is not flailing all Senate Democrats. That is not accusing all Senate Democrats as being unpatriotic. Quite far from it. To stand on the floor and say, well, the President said that six times in the last few days, I don’t believe is factually accurate. And to send signals to our allies and our adversaries that this is politicizing the war; or that some of us might be, is politicizing the war, and it is wrong. And it sends the wrong signal. It sends all kinds of wrong signals, and it shouldn’t be done.

If you are going to quote the President of the United States, not his election committee, not some mysterious tape that shows up somewhere, but if you are going to quote the President of the United States, you ought to quote him accurately. And that was not done. And it is probably one of the harshest attacks I have ever seen on a sitting President of the United States in my 22 years in the Senate—the harshest. And at a time when we are in the process of trying to build an international coalition, the timing could not be much worse.

Also, I am bothered that people would say: Well, he said it. I’m just sure he did.

Well, he didn’t say it. And if somebody has a quote—an accurate quote—that shows I am incorrect, I will stand here and say, oops, I’m wrong, because I believe more than anything my integrity means more to me than whatever somebody else says. I want to be factually accurate.

Before I came down yesterday to the floor, I said: Give me a transcript of the speech. I wanted to see exactly what it said. I didn’t want to say: It didn’t sound like something President Bush would say to me. And I have heard him give many campaign speeches. I know him pretty well. That doesn’t sound like him. Where is it in his speech? Oh, he didn’t say that.

He even went on to say both Democrats and Republicans are working to pass what he termed a good bill and he never castigated all Senate Democrats as being unpatriotic or not interested in national security—he didn’t say it. Surprisingly enough, just because something is in the Washington Post does not make it right. The Washington Post was not even quoted accurately. I mean, come on now. This is a serious issue. I want to conclude with a statement.

The Senate of the United States is a great institution, and I don’t think it behooves us to quote a flier from the Republican National Committee, or the Democrat National Committee, or pluck a lot of quotes, and say let’s see what we can pull out of these documents. We are talking about a quote from the President not these fliers and statements from other people.

I can pull out more quotes right now from President Clinton and Vice President Gore stating their efforts to repudiate Saddam Hussein, the need for strong enforcement of resolutions, and on and on, that they never enforced—that they never enforced.

There were 16 resolutions passed in the United Nations dealing with Iraq, and the previous administration talked tough, lobbed a few bombs, a few cruise missiles, but we never enforced them. The net result is there have been no arms control inspections going on in Iraq for this whole time.

It is a lot more dangerous today than it was four years ago. When I read these previous statements, both by President Clinton and Vice President Gore, about how we have to get tough on Iraq, and then we didn’t do anything, it makes me wonder: Wait a minute, what is going on?

So now we are saying we should adopt a resolution that is not too far different than what we adopted unanimously in 1998 with almost no debate, and people are acting like: Wait a minute, the sky is falling. Or they try to move an issue from homeland security into the war on Iraq. I don’t know if that is a mistake, but there is a real problem there. You can’t be sending mixed signals to our potential adversaries and/or our potential allies, when we are trying to get people on our side, and misquote the President of the United States on something that important.

Mr. Lieberman. Mr. President, will the Senator yield for a question? Mr. Nickles. I am happy to yield.

Mr. Lieberman. Of course, I am working on both sides of the aisle and with the White House to see that we can fashion a strong resolution giving the President authority to take whatever actions are necessary in Iraq.

But will the Senator from Oklahoma help me understand, what did the President mean when he said, at a fundraiser for Mr. Forrester, in New Jersey, Monday: “And my message to the Senate is: You need to worry less about special interests in Washington and more about the security of the American people”? At a welcome ceremony in Trenton, Monday, he said: “The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people.”

At a meeting with Cabinet members on Tuesday, the President said: “My message, of course, is that—to the senators who are interested in special interests, you better pay attention to the overall interests of protecting the American people.”

Then, finally, on Tuesday, at a fundraiser for Mr. Thune, from South Dakota, on a good homeland security bill. And the Senate must hear this, because the American people understand it: They should not respond to special interests. They ought to respond to this interest: protecting the American people from a future attack.

So I say the problem here is we have a disagreement about how to best protect homeland security workers or whether to protect them, and also how to preserve the authority of the President of the United States. That is a good-faith dispute which we are having.

But I think the concern is that the President was questioning the patriotism of those who do not agree with him on this issue.

Mr. Nickles. I will be happy to respond to my colleague. I actually read both of those quotes. I put one in the RECORD. I will put both quotes in the RECORD so the American people can see this.

I read the President’s comments. You only read one line. I read three paragraphs—he never said, “The Democrats in the Senate are not interested in national security.” That was the maddening quote. He never said it—never said it. Yet it was accepted that he said it. That is wrong. It was stated on last night’s TV, stated in this morning’s floor debate. I heard one or two people say he impugned the integrity of the entire Democratic caucus. No, he didn’t. Read what the President said. He even complimented Democrats. He said both Republicans and Democrats are working hard to pass a good bill.

There are consequences to words. Words are important. I read the President’s statements both at the Forrester event and the Thune event. They were not offensive, and they never stated what was said on the floor of the Senate. They were misconstrued somehow, some way. That is unfortunate because there are consequences to our words.

There are some people who listen. There are headlines. I haven’t read what the European papers have said, but I didn’t look forward to that because I am afraid it sends the wrong signals.

I do agree with my colleagues, we should improve the quality of debate in the Senate. If we ever quote anybody, we should quote them accurately. We should never impugn the motives or integrity of any Member. That has happened more frequently around here than it should. Nor should we impugn...
I ask unanimous consent to print the document in the RECORD.

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

**EFFECTIVELY DEFENDING OUR HOMELAND AT THE SAME TIME WE NEED TO TELL YOUR SENATORS TO SUPPORT PRESIDENT BUSH’S HOMELAND SECURITY; DEMOCRAT SENATORS PUT SPECIAL INTERESTS OVER SECURITY.**

“I asked Congress to give me the flexibility necessary to be able to address the true threats of the 21st century by being able to move the right people to the right place at the right time, so we can better assure America we’re doing our job.”


President Bush has called on the Senate to pass the bipartisan plan by Senators Gramm and Miller that creates a homeland security agency with the flexibility and freedom to manage the needs to keep America safe. This bipartisan approach is stalled in the Senate because some Senate Democrats have chosen to put special interest federal government employee unions over the security of the American people. Instead of providing President Bush with the power he needs to protect the homeland, the flexibility and freedom to manage, the Democrats would strip the Presidency of a vital national security tool every President since John F. Kennedy has had—the power to suspend executive bargaining agreements during times of national emergency. Learn why this is critical to our homeland defense: http://www.gopteamleader.com/myissues/viewissue.asp?id=3;

This week the Washington Post exposed why some Democrat Senators have put special interests over our national interests by reporting that “lawmakers are loath to cross them just weeks before critical elections,” saying that Democrats have received “$50 million in donations in this cycle” alone. Tell these Democrat Senators that our homeland security is more important than partisan politics and that they need to support the bipartisan bill endorsed by President Bush. We need a single homeland security agency that:

- Protects the President’s existing National Security authority over the federal workforce.
- Gives the new Secretary of Homeland Security the flexibility and freedom to manage to meet new threats.
- Protects every employee of the new department against illegal discrimination, and builds a culture in which federal employees know they are keeping their fellow citizens safe through their service to America.

**THE PRESIDING OFFICER.** The Senator from West Virginia.

Mr. BYRD. Did the Senator want me to yield to him?

Mr. GRAMM. Mr. President, we were debating homeland security at one point earlier today, and I don’t want to do an example of the kind of problem I am concerned about has just come to my attention. That is a complaint that has been filed...
by the National Treasury Employees Union against a system that we are all familiar with. When there is concern about a potential terrorist attack, the Government has set up threat priorities. Green is a low threat, blue is a guarded threat, yellow is an elevated threat, orange is a high threat, and red is a severe threat.

We have just gotten word that the National Treasury Employees Union— and I want to put this in the RECORD— has filed a complaint basically containing that this system of ratings violates their union contract because the Department was required to negotiate with them before it sent out a warning system.

I also want to put in the RECORD the statement from the White House release on it that said:

In effect, the union is saying that the Customs Service has no right to implement the President's homeland security direction without entering into lengthy negotiations. And since the Customs Service went ahead anyway, it is now suing the Customs Service in the Federal Labor Relations Authority.

This is a case that just happened that we ought to be looking at as we write this bill.

I thank the Senator for yielding. To save money for the taxpayers, we produced one document on one side of the paper, and the other document on the other side of the paper. So when we put it in the RECORD, look on both sides of the paper. I ask unanimous consent that these documents be printed in the RECORD.

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

UNITED STATES OF AMERICA, FEDERAL LABOR RELATIONS AUTHORITY—CHARGES AGAINST AN AGENCY


5. Which subsection(s) of 5 U.S.C. 7116(a) do you believe have been violated? (See reverse) (1) and (5).

6. Tell exactly WHAT the activity (or agency) did. Start with the DATE and LOCATION, state WHO was involved, including titles.

On or about August 20, 2002, Customs issued a Customs Alert Protective Measures Directive without first notifying NTUEU and affording it the opportunity to negotiate in violation of 5 U.S.C. 7116(a)(1) and (5).

TIMELINE

March 11: President signed Homeland Security Policy Directive 3 (Attachment A), which called for the creation of the five-level Homeland Security Advisory System. The key idea of this system was that federal state, and local agencies would adopt standardized protective measures for the different threat levels. This began a formal 335 day comment period.

July 26: Attorney General Ashcroft and Governor Ridge reported to the President that the system was ready to put into effect.

July 28: The White House directed all agencies to conform their protective security conditions to the new five tiered system.

August 26: In a letter to Customs, Judge Rob Bonner, complied with this directive from the President by issuing a Customs Alert Protective Measures Directive to the entire customs Service (Attachment B).

September 10: The President decided to raise the threat level from yellow (level 3) to orange (level 4). The Customs Service and many other federal, state, and local security agencies responded by increasing their protective measures to the next level. Virtually all experts agreed this is a better system that what we had before.

September 18: The National Treasury Employee Union, which represents some officers of the Customs Service, filed a complaint basically concerning the Federal Labor Relations Authority (Attachment C) against the customs Service for issuing the directive.

Their grievance reads: ‘‘On or about August 20, 2002, Customs issued a Customs Alert Protective Measures Directive without first notifying and affording it the opportunity to negotiate in violation of 5 U.S.C. 7116(a)(1) and (5).’’ (5 U.S.C. 7116(a)(1) and (5) is the standard statute under which ULP grievances are customarily filed.)

In effect, the union is saying that the Customs service has no right to implement the President’s homeland security direction without entering into lengthy negotiations. And since the Service went ahead anyway, it is now suing the Customs Service in the Federal Labor Relations Authority.

The PRESIDING OFFICER. The Senator from West Virginia.

IRAQ

Mr. BYRD. Mr. President, amidst the wall-to-wall reporting on Iraq that has become daily grist for the Nation’s news media, a headline in this morning’s USA Today leaped out from the front page: “In Iraq’s arsenal, Nature’s deadliest poison.”

The article describes the horrors of botulinum toxin, a potential weapon in Iraq’s biological warfare arsenal. According to the Journal of the American Medical Association, botulinum toxin is the most poisonous substance known. We know that Saddam Hussein produced thousands of liters of botulinum toxin in the former Soviet Union. We also know where some of the toxin came from. The United States, which approved shipments of botulinum toxin from a nonprofit scientific specimen repository to the government of Iraq in 1980 and 1989, I recendly wrote to Defense Secretary Donald Rumsfeld about these shipments during an Armed Services Committee hearing a week ago. I repeat today what I said to him then: In the event of a war with Iraq, might the United States be facing the possibility of reaping what it has sown?

The threat of chemical and biological warfare is one of the most terrifying prospects of a war with Iraq, and it is one that should give us serious pause before we embark on a course of action that might lead to an all-out, no-holds-barred conflict.

Earlier this week, British Prime Minister Tony Blair released an assessment of the Iraqi government’s de­struction program which contained the jolting conclusion that Iraq could launch chemical or biological warheads within 45 minutes of getting the green light from Saddam Hussein.

This British government’s assessment, while putting Iraq’s chemical and biological capabilities in starker terms than perhaps we have seen before, closely tracks with what U.S. officials have been warning for some time: namely, Saddam Hussein has the means and the know-how to wage biological and chemical warfare, and he has demonstrated his willingness to use such weapons. By the grace of God, he apparently has not yet achieved nuclear capability.

On the matter of biological warfare, Gen. Richard Myers, Chairman of the Joint Chiefs of Staff, testified before the Senate Armed Services Committee last week that many improvements have been made, particularly to protective gear worn by American soldiers and to the sensors used to detect chemical or biological agents.

But according to the USA Today article on botulinum toxin, U.S. troops would be just as vulnerable to botulinum toxin today as they were during the Gulf war.

This is what the article states: ‘‘There’s still no government-approved vaccine, and the only antitoxin is made by extracting antibodies from the blood of vaccinated horses using decades-old technology.’’

Last year’s anthrax attack on the U.S. Senate gave all of us in this Chamber firsthand experience with biological warfare and new insight into the various nature of biological weapons. And that attack—heard me now—involved only about a teaspoon or so of anthrax sealed in an envelope. The potential consequences of a massive bio­weapons attack against American soldiers on the battlefield boggle the imagination.

My concerns over biological warfare were heightened last week when I came across a report in Newsweek that the U.S. Government had cleared numerous shipments of viruses, bacteria, fungi, and protozoa to the Government of Iraq in the mid-1980s, at a time when the U.S. was cultivating Saddam Hussein as an ally against Iran. The shipments included anthrax and botulinum toxin.

Moreover, during the same time period, the Centers for Disease Control, CDC, was also shipping deadly toxins to Iraq, including vials of West Nile fever virus and Dengue fever.

This is not mere speculation. I have the letters from the CDC and the American Type Culture Collection laying out the dates of shipments, to whom they were sent, and what they
included. This list is extensive and scary anthrax, botulinum toxin, and gas gangrene to name just a few. There were dozens and dozens of these pathogens shipped to various ministries within the Government of Iraq.

What about today? Why do I care about something that happened nearly 20 years ago when Saddam Hussein was considered to be a potential ally and Iran’s Ayatollah Khomeni was public enemy No. 1 in the United States? It is relevant to today’s debate on Iraq. This is not yesterday’s news. This is tomorrow’s news.

Federal agencies have documents detailing exactly what biological material was shipped to Iraq from the United States. We have a paper trail. We not only know that Iraq has biological weapons, we know the type, the strain, and the batch number of the germs that may have been used to fashion those weapons. We know the dates they were shipped, and the addresses to which they were shipped.

We have in our hands—now get this—the equivalent of a Betty Crocker cookbook of ingredients that the U.S. allowed Iraq to obtain and that may well have been used to concoct biological weapons. Last week’s Armed Services Committee hearing, Secretary Rumsfeld said he has no knowledge of any such shipments, and doubted that they ever occurred. He seemed to be a little affronted at the very idea that the United States would ever countenance entering into such a deal with the devil.

Secretary Rumsfeld should not shy away from this information. On the contrary, he should seek it out if he does not know it. Let’s find out. No one is alleging that the United States deliberately sneaked biological weapons to Iraq under the table during the Iran-Iraq war. I am not suggesting that. I am confident that our Government is not that stupid. It was simply a matter of business as usual, I suppose. We freely exchange information and technology including scientific research with our friends. At the time, I suppose, Iraq was our friend. If there is any lesson to be learned from the Iraq experience, it is that we should choose our friends more carefully, see further down the road and exercise tighter controls on the export of materials that could be turned against us.

This is not the first time I have advocated stricter controls on exports. In fact, I added an amendment to the 1996 Defense Authorization Act that was specifically designed to curb the export of dual-use technology to potential adversaries of the United States.

In the case of the biological materials shipped to Iraq, the Commerce Department and the CDC have lists of the shipments. The Defense Department ought to have the same lists as well. The decision-makers will know exactly what types of biological agents American soldiers may face in the field. Doesn’t that make sense?

Shouldn’t the Defense Department know what is out there, so that the generals can know what counter-measures they might need to take to protect their troops?

I believe the answer to those questions is yes. I am using the information I have to Secretary Rumsfeld. He said he did not have any such information so I am going to send it to Secretary Rumsfeld. No matter how repugnant he finds the idea of the U.S. even inadvertently aiding Saddam Hussein, in its pursuit of biological weapons, the Secretary should have this information at hand, and should make sure that his field commanders also have it.

The most deadly of the biological agents that came from the U.S. were shipped to the government of Iraq by the American Type Culture Collection, ATCC, a non-profit organization that provides biological materials to industry, government, and educational institutions. In 1986, the Ayatollah Khomeni was America’s sworn enemy. The U.S. Government courted Saddam Hussein in an effort to undermine the Ayatollah and Iran. Today, oh, how different. Saddam Hussein is America’s enemy number one; America’s greatest enemy. America’s most dangerous enemy, and the U.S. is said to be making overtures today to Iran.

The decision to provide military training to Iraqi opponents of Saddam Hussein would mark a major change in U.S. policy, ending a prohibition on lethal assistance to the Iraqi opposition. It is not a decision that should be undertaken lightly.

Although administration officials told the Post that initial plans called for modest steps that would allow members of the Iraqi opposition to provide liaison to the local population and perhaps guard prisoners of war, the official did not shut the door on providing training and equipment for more lethal activities.

“Nobody is talking about giving them guns yet,” one official was quoted as saying. “This would be a dramatic step, but there are many dramatic steps yet to be taken.”

Has the administration adequately explored the potential ramifications of creating ethnic armies of dissidents in Iraq? Could the U.S. be laying the groundwork for a brutal civil war in Iraq? Could this proposed policy change precipitate a deadly border conflict between the Kurds and Turkey? Could we perhaps be setting the stage for a Shi’ite ruled Iraq that could align itself with Iran, thus destabilizing the Middle East and hard-line Shiite Muslims along the lines of the Ayatollah Khomeni?
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These are legitimate questions. They are troubling questions. And they should be carefully thought through before we unleash an open-ended attack on Iraq. We had better think about these questions. We better ask these questions. The administration had better listen and so had the American people.

There are many outstanding questions that the United States should consider before marching in lockstep down the path of committing America’s armed forces to effect the immediate overthrow of Saddam Hussein. The peril of biological weapons is only one of those considerations, but it is an important one.

Has it been thought out? Has it been discussed? Has the administration said anything to Congress about this, whether or not the administration has explored these questions? Here are the questions. Don’t say they were not asked. The more we know now, the better.

Decisions involving war and peace—most fundamental of life and death decisions—should never be rushed through this Senate. I say that again. Decisions involving war and peace—the most fundamental of life and death decisions—they affect your sons and daughters out there, your blood. Such decisions should never be rushed through, never be rushed through or muscled through in haste.

Our forefathers understood that and wisely vested in the Congress—not in the President, not in any President, Democrat or Republican—the power to declare war.

We are going to discuss this. There is going to be a discussion of it. It is not going to be rammed through all that fast.

Congress has been presented with a Presidential request for authorization to use military force against Iraq. We now have the responsibility to consider that. I ask my colleagues to do just that and avoid the pressure—avoid the pressure to rush to judgment on such an important and vital and far-reaching and momentous matter.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will 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.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent at the conclusion of the vote on the motion to invoke cloture on the Lieberman substitute amendment, regardless of the outcome, the Senate stand in recess until 5:15 p.m. today; further, notwithstanding rule XXII, the vote on the motion to invoke cloture on the Gramm-Miller amendment No. 4738 occur at 5:30 today, with the time between 5:15 and 5:30 equally divided and controlled between the two leading Senators. And that second-degree amendments to the Gramm-Miller amendment may be filed until 6 p.m. today.

When this vote is completed, we will be in recess until 5:15. Both parties are invited to have conferences. For knowing that, there will be 15 minutes of debate and then there will be a vote on cloture on the Gramm-Miller amendment.

I would say this has been a long struggle getting to where we are today. I express my appreciation to the manager of the bill, Senator THOMPSON, and of course the person we have heard a lot from in the last several days, my friend, the distinguished senior Senator from Texas, Mr. GRAMM.

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accord-ance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Lieberman substitute amendment No. 4471 to H.R. 5005, the Homeland Security bill: Debbie Stabenow, Harry Reid, Charles Schumer, Evan Bayh, Mark Dayton, Jeff Sessions, John Edwards, Jim Jeffords, Joseph Lieberman, Bill Nelson of Florida, Blanche L. Lincoln, Byron L. Dorgan, Jack Reed, Patrick Leahy, Robert C. Byrd, Mary Landrieu, Max Baucus.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that on this vote the yeas are 50, the nays are 49. Three-fifths of the Senators must be present and sworn not having voted in the affirmative, the motion is rejected.

FOREIGN RELATIONS AUTHORIZA-TION ACT, FISCAL YEAR 2003—CONFERENCE REPORT

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of the conference report to accompany H.R. 1646, just received from the House; that the report be considered and agreed to; that the correcting resolution, H. Con. Res. 483 at the desk be agreed to; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements related to this matter be printed in the Record.

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

(The report is printed in the House proceedings of the RECORD of September 23, 2002.)

Mr. BIDEN. Mr. President, I am pleased to present to the Senate the conference report on H.R. 1646, the Foreign Relations Authorization Act for fiscal year 2003.

The bill contains two divisions. Division A is the State Department Authorization Act, and contains authorization of appropriations for the Department of State, and other foreign policy programs, and also contains several policy provisions. Division B contains the Security Assistance Act, which provides authorization and legal authorities under the Arms Export Control Act and the Foreign Assistance Act.

This bill includes several important items, including the completion of a project that Senator HRUSKAS and I began in 1997, the legislation to authorize payment of our back dues to the United Nations in exchange for reform in that organization. The conference
report would facilitate the final installment of $244 million in arrears to the UN and other international organizations. I salute the former Chairman of the Committee, Senator HELMS, for initiating this project six years ago and for sticking with it. It has made a major contribution to improving the relationship between the United States and the United Nations.

The bill includes two other provisions important to continuing the improvement of our relationship with the United Nations. First, the bill clears the way for the payment of nearly $80 million in new arrears which have accumulated in the last few years. Second, the bill authorizes the payment of our dues to the UN at the beginning of the calendar year, rather than the current system whereby we pay our dues at the start of the U.S. fiscal year. That late payment of our dues is detrimental, not only to UN operations, but to U.S.-UN relations. I hope the Administration will embrace this provision and request the necessary funds in the fiscal year 2004 budget.

Further, the bill authorizes funding at levels equal to or exceeding the President’s budget request for the Department of State’s embassy security contributions for international organizations and international peacekeeping, and international broadcasting. The United States is a great power, and it has substantial responsibilities around the world. In order to meet those responsibilities, it must have a well-funded and well-equipped diplomatic corps. And if we are going to deploy our diplomats around the world, we must protect them. We cannot provide perfect security for our people, but we can and must take all reasonable precautions against known dangers. In 1999, Congress provided an authorization of $4.5 billion over five years—or $900 million per year, for embassy construction and security. This bill adds an additional $100 million to this authorization for fiscal year 2003.

Division B of this bill is the Security Assistance Act of 2002. It includes: foreign military assistance, including Foreign Military Financing and International Military Education and Training; international arms transfers; and many of our arms control, nonproliferation and antiterrorism programs.

This division includes some significant initiatives. For example, several provisions are designed to streamline the arms export control system, so as to make it more efficient and responsive to competitive requirements in a global economy, without sacrificing controls that serve foreign policy and national security interests. At the same time, however, an ill-advised export license could lead to sensitive equipment getting into the hands of enemies or of unstable regimes. So there is a tension between the need for efficiency and the need not to make a mistake that ends up putting U.S. lives at risk. This bill addresses that tension providing funds for improved staffing levels, information technology, and computer systems to enable the State Department to make quicker and smarter export licensing decisions. It also raises modestly the prior notice thresholds for some arms sales to our NATO allies, New Zealand or Japan. On the other hand, this bill adds a prior notice requirement for some sales of small arms and light weapons and strengthens the prior notice requirement for changes in the United States Munitions List.

Division B includes several new nonproliferation and antiterrorism measures. For example, the ban on arms sales to state supporters of terrorism in section 40(d) of the Arms Export Control Act, is broadened to include an authorization of the State Department to take a significant step: they agreed to pay ten times over the last few years. So there is a tension between the need for efficiency and the need not to make a mistake that ends up putting U.S. lives at risk. This bill addresses that tension providing funds for improved staffing levels, information technology, and computer systems to enable the State Department to make quicker and smarter export licensing decisions. It also raises modestly the prior notice thresholds for some arms sales to our NATO allies, New Zealand or Japan. On the other hand, this bill adds a prior notice requirement for some sales of small arms and light weapons and strengthens the prior notice requirement for changes in the United States Munitions List.

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This bill requires the President to establish an interagency mechanism to coordinate nonproliferation programs for the nuclear arms states of the former Soviet Union. This provision is based on S. 673, a bill introduced by Senator HAGEL and me with the co-sponsorship of Senators DOMENICI and LUGAR. It will ensure continuing, high-level coordination of our many nonproliferation programs, so that we can be more confident that they will mesh with each other. The need for better coordination has been cited in several reports, including last year’s report of the Russia Task Force of the Secretary of Energy Advisory Board, chaired by former Senator Howard Baker and former White House counsel Lloyd Cutler.

This bill encourages the Secretary of State to seek an increase in the regular budget of the International Atomic Energy Agency, beyond that required to keep pace with inflation. Because the IAEA’s budget for 2003 has already been adopted, this bill authorizes an increase in the U.S. voluntary contribution to IAEA programs. This organization is vital to our nuclear nonproliferation efforts, its workload is increasing, and now it has begun a major program to locate and secure ‘orphan’ nuclear sources that could otherwise show up in a terrorist’s radiological weapon.

Subtitle XIII-B of this bill is the “Russian Federation Debt for Nonproliferation Act of 2002,” a provision that Senator LUGAR and I introduced, with the support of Senator HELMS. This subtitle authorizes the President to offer Soviet-era debt reduction to the Russian Federation in the context of an arrangement whereby the savings to Russia would be invested in agreed nonproliferation projects. Debt reduction is a potentially important means of funding the costs of securing Russia’s stockpiles of sensitive nuclear material, chemical weapons and dangerous pathogens, of destroying its chemical weapons and dismantling strategic weapons, and of helping its former weapons experts to find civilian careers and resist offers from rogue states or terrorists.

Three months ago, the Bush Administration persuaded the G-8 countries to take a significant step: they agreed to what is known as “10 plus 10 over 10,” a commitment to provide the Russian Federation $10 billion in nonproliferation assistance and $10 billion in assistance from the other G-8 members over the next 10 years. This joint willingness to provide $20 billion opens new possibilities in Russian nonproliferation. It also sends a message to Moscow that working with the West on nonproliferation will be more profitable than selling dangerous technology to Iran.

The G-8 agreement included the important possibility of the leading economic countries of the world giving the Russian Federation $10 billion in nonproliferation assistance, and the Administration worked with us to ensure that this subtitle gives the President the flexibility he would need if he chose to use debt reduction. Pursuant to the Pay-as-you-go rules of the Federal Credit Reform Act of 1990, he must still obtain appropriations for the cost of reducing any debt pursuant to this section. I have every hope, however, that we will see the day when both the United States and several of our allies use debt reduction to increase our nonproliferation assistance to Russia.

In closing, I thank my colleagues on the conference committee, particularly Chairman HYDE and Representative LANTOS in the other body, and Senator HELMS, for their cooperation in putting together this bill.

I would also like to recognize the hard work of all the staff on both the House and Senate committees, who did much of the preliminary work to prepare the bill for consideration by the conference committee. Equally important, I want to recognize the invaluable contributions and tireless efforts of the Deputy Legislative Counsel in the Senate, Art Rynearson. Mr. Rynearson labored many hours, including all of this past weekend, to assist the Committee staff in preparing and refining the legislative language in the conference report. This report would not have been ready for consideration at this time without his hard work.

This conference report is important to the operation of our U.S. foreign policy agencies. It has received strong approval in the other body. I urge its approval by the Senate.

Mr. HELMS. Mr. President, this legislation is the culmination of a bipartisan effort begun early in the 107th Congress. Senator BIDEN chaired our conference committee and was a tremendous leader in finalizing the bill with our bipartisan support. I thank him for his leadership of the committee and his friendship over the past 30 years.
Given the strange events of the 107th Congress, this bill in fact had bipartisan authorship. We provided a first draft of this legislation to Senator Biden in May 2001, when the Senate leadership changed hands. The bill approved by the conference committee is similar to the one we introduced in many respects. It contains important details that advance our national interest and reflect shifts in priorities that followed the terrorist attacks on our country of September 2001.

This bill allows for the payment of our U.N. assessments in a manner that encourages that organization to embrace improved financial practices and to complete the reforms that were initiated at our insistence, including the critical issue of appropriate representation of American personnel in U.N. positions.

This bill accomplishes a number of other important objectives. It reaffirms Congress’s strong support for Israel and its security. It provides an important ally in a turbulent region by recognizing the right of Israel to name Jerusalem as its own capital and by financial backing to ensure its national security. It promotes stability in the Taiwan Straits by reaffirming our insistence that any resolution of that long-standing conflict must be peaceful and based on the freely expressed will of the people of Taiwan.

We have, I hope conclusively, clarified the status of the American Institute in Taiwan by requiring that the American flag be flown just as proudly over that Institute as it is over all American diplomatic facilities. The legislation recognizes the importance of maintaining pressure on the repressive Castro regime in Cuba and moves us toward the goal of liberating the Cuban people. It does this by specifically authorizing continued radio broadcasting to Cuba.

I look especially to Secretary Powell with additional authorities to meet the increasing need for effective American diplomacy in the present crisis and to enhance the capacity of Diplomatic Security agents. It also makes equitable pay, personnel and travel adjustments for the benefit of State Department personnel.

We also extended indefinitely the reporting requirement on international child abductions, reflecting our dis- satisfaction with the lack of success in reuniting American parents with their children when they are kidnapped overseas by the other parent. We established new reporting obligations that ensure that Congress is notified when children when they are kidnapped overseas by the other parent. We established new reporting obligations that ensure that Congress is notified when children are kidnapped over seas by the other parent. We established new reporting obligations that ensure that Congress is notified when children are kidnapped over seas by the other parent. We established new reporting obligations that ensure that Congress is notified when children are kidnapped over seas by the other parent.

The Security Assistance portion of this bill contains several important provisions, particularly those regarding investments in the development of the region. It supports the critical addition for war against terrorism, as it enables the United States to maintain a positive influence in the region and enables our forces to have access to training and range facilities.

Additionally, Title XII recognizes the important work of the Office of Defense Trade Controls, and supports additional authorities so that it can achieve a greater level of efficiency in processing munitions licenses.

Finally, every Senator knows that no bill is possible without many long hours and hard work by staff. I can’t tell these young men and women often enough what a great service they do for the Senate and for the country. I am especially grateful to Patti McNerney, the Committee’s Republican Staff Director, Rich Douglas, the Chief Republican Counsel, Senior Staff Members Mark Lagon and Mark Esper, Republican Counsel Jeff Gibbs, and Professional Staff Members Carolyn Leddy and Maurice Perkins. I am grateful for the work of the rest of the Committee’s Republican Staff: Skip Fischer, Walter Lohman, Jed Royal, Jose Cardenas, Brian Fox, Susan Williams, David Merkel, Kelly Siekmann, Sarah Battaglia, Philip Griffin, Lester Munson, Kris Klaich, Hannah Williams, and Sarah Bardinelli.

The cooperative efforts and hard work of the Democratic Committee staff members, especially Brian McKeon, the Committee’s Chief Counsel, Ed Levine, and Jofi Joseph, as well as Sarah and Andrew Givens. The conference report into proper legislative form. I say thank you to all.
The conference report was agreed to. The concurrent resolution (H. Con. Res. 483) was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 5:15 p.m.

Thereupon, the Senate, at 4:17 p.m., recessed until 5:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. Reid).

HOMELAND SECURITY ACT OF 2002—Continued

AMENDMENT NO. 473B

The PRESIDING OFFICER. Under the order previously entered, there are 15 minutes equally divided between the two managers of the bill.

Who yields time?

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I yield myself up to 3½ minutes.

One of my favorite expressions is: Only in America, this great country of ours, do we try to bring this debate on the motion to invoke cloture, that only in the Senate, the great deliberative body we are, would we find Members about to do what I fear they are going to do, which is to vote against a proposal that they themselves have made because they want to vote on it without anyone else having a right to amend it. That is where we are.

We have had a good debate. We have the Gramm-Miller substitute amendment to the underlying Senate Governmental Affairs Committee proposal that created the Homeland Security Department. Senator Gramm and Senator Miller said their proposal and ours are 55 percent the same. We have a disagreement about how to protect homeland security workers in the new Department and still retain the authority of the President over national security.

Senator BEN NELSON of Nebraska and Senator JOHN BREAUX of Louisiana, working together with Senator LINCOLN CHAFEE of Rhode Island, have found common ground. They presented and crafted an amendment that gives a little bit of reassurance against arbitrary action to the Federal workers before they have their union rights, collective bargaining rights, taken away because the President determines those rights are in conflict with national security. It gives the President some new authority to reform the civil service system but encourages him to try to negotiate those changes with the unions. If that does not work out, then it is decided by a board, where the President appoints all the members. This achieves some due process and fairness for homeland security workers but does not diminish the final word of the President of the United States at all.

In short, with all respect, I say to my colleagues who support Gramm-Miller but who are going to oppose the end of a filibuster of Gramm-Miller, they do not know how to accept a yes to the question they have asked. The Nelson-Chafee-Breaux amendment says yes to the question they have asked. How can we create a Department of Homeland Security, retain the authority of the President, and still protect some fairness and due process for homeland security workers?

What they are asking for is an up-or-down vote on the Gramm-Miller proposal, the President’s proposal, denying us, apparently—the majority of us, now 51—the right to vote on an amendment which, incidentally, is pretty much the exact same amendment Congresswoman CONNIE MORELLA, a Republican of the House, was allowed by the Republican leadership of the House to put on the President’s proposal. We can at least offer the same courtesy and rights to three bipartisan Members of the Senate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Mr. President, I yield such time as the Senator from Nebraska requires.

The PRESIDING OFFICER. The Senator from Nebraska has up to 4 minutes.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague from Connecticut for this opportunity to speak on this amendment.

Quite frankly, I think my colleague from Connecticut is absolutely right, and I ask my friends on both sides to take yes for an answer because I truly think this amendment will be the kind of yes that has been sought in the past.

I am puzzled, as I think perhaps anybody watching and many of us here today are puzzled, by the characterization of this amendment as being in opposition to the President. Anytime you are trying to close the gap, anytime you are trying to bring about a resolution of compromise, it is hardly an exercise in opposition. I think, if anything, we should be looked at as friends of the process in trying to bring this together.

To also suggest cloture would be inappropriate now is also very startling because I always thought cloture was how we finally brought the end of debate to get a vote for or against legislation to move it forward. Right now it seems the vote against cloture is to stall and have more opportunity for debate.

So if people are a bit puzzled, I can only appreciate that fact because I am puzzled, too.

In this exercise, I have learned a lot about the spin as opposed to the appropriate characterization of letters or of comments on the floor. I thought we were giving Governor Ridge and Senator Gramm exactly what they were asking for because that is the way I read Senator Gramm’s comments. I presided the day he was presenting them, and I thought I understood him. I am surprised to find out I did not understand what he was saying. I am surprised I cannot read a letter from Governor Ridge in which he says the same things. Now I know what he wants. We now have a Homeland Defense Department.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska has the right to vote on an amendment to the National Security Act of 1947. The Senator from Nebraska is under the time controlled by the right to vote on an amendment to the National Security Act of 1947.

Mr. BURNS. I congratulate my friends from Nebraska and Connecticut who were just talking. It seems like yesterday we came to this body. You didn’t get your goat, either.

We have all been involved in conferences. Anytime we pass legislation in this body and then it is passed in the House, we go to conference. In conference is where we settle our differences. It usually comes down to one or two items where there starts to be an impasse.

Basically, those one or two items were dealt with in the amendment of my friend from Nebraska. It is still there and even adds another layer or hurdle for the President to jump in the management of this Department before a final decision can be made on the movement of money or personnel and their responsibilities in this particular national security Department.

We have not dealt with the two very important ones, and nobody puts it better than the ranking member of the committee of jurisdiction. So I caution Senators this is a bold attempt to find a compromise, but even though you pass their amendment, it does not deal with the heart of this debate.

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We have not dealt with the two very important ones, and nobody puts it better than the ranking member of the committee of jurisdiction. So I caution Senators this is a bold attempt to find a compromise, but even though you pass their amendment, it does not deal with the heart of this debate.
So whenever Senators start looking at this, they should look into it deeply, and they will find a compromise was attempted, but it did not get us to where we should be if they think the President should have the flexibility to manage money and personnel in this very important new Department we are creating.

I yield the floor.

Mr. STEVENS. I am proud to be an original cosponsor of this bipartisan substitute here to urge its adoption as the most effective way to create a new Department of Homeland Security to protect our Nation from the threat of terrorism.

I take this opportunity to highlight four important provisions of the bipartisan substitute that are significant improvements to the committee-endorsed legislation before the Senate.

These provisions address the use of appropriated funds, presidential reorganization authority, and the status of the Coast Guard within the Department.

Section 738 of the bipartisan substitute includes the appropriations-related language that the committee endorsed to maintain the appropriate check and balances between the legislative and executive branches with respect to the use of appropriated funds.

It improves on that language by authorizing an appropriation of $160 million, and general transfer authority of $140 million, and general transfer authority of $160 million in new appropriations and the $140 million in general transfer authority.

These provisions address the use of appropriated funds.

The bipartisan substitute reaffirms the regular appropriations process and that it will work to allocate the needed start-up funding and to prevent disrupting the ongoing operations of the transferred organizations.

With regard to reorganization authority the originally proposed legislation for the Department of Homeland Security would have granted the new Secretary almost unlimited authority to establish, consolidate, alter, or discontinue any organizational units within the Department after giving Congress 90 days notice.

Under the Constitution, Congress has the responsibility to appropriate funds by law for the executive branch departments, agencies, and other organizations that have constitutional responsibilities to execute our laws.

Congress should not allow the many agencies transferring to the Department to be altered, merged, disbanded, or replaced solely and unilaterally by executive branch fiat.

We have the responsibility to ensure that the people’s elected Senators and Representatives are part of the process of creating, modifying, or disbanding the organizations that spend the people’s hard-earned tax dollars.

Congress’s constitutional role in our system of Government is to set priorities for the use of appropriated funds and to oversee their use to ensure that these funds are expended effectively and efficiently.

The creation of a new and effective Department of Homeland Security is a shared responsibility between the executive and legislative branches. For the Department to be successful, both branches of Government—really each branch of Government—must cooperate with each other.

Congress and the executive branch should forge a relationship that is based on the mutual trust and shared compromise that the Framers of the Constitution envisioned in creating a system of checks and balances. Such a relationship is necessary for the effective functioning of the Federal Government.

In section 734, the bipartisan substitute preserves Congress’s rightful role in this process by requiring that both the Senate and the House of Representatives approve any proposed reorganization plans under expedited procedures.

With regard to submission of a multiyear homeland security budget plan, section 739 of the bipartisan substitute requires the submission of a multiyear, homeland security spending plan with each budget request for the new Department, beginning with the fiscal year 2005 request.

This section will enable the Congress and the executive branch to fully understand the annual and multi-year...
funding requirements to make our homeland secure.

It will assist us in determining the most appropriate funding levels to protect the American people from terrorist threats.

The recommended statutory language requires that the Future Years Homeland Security Program be structured as, and include the same type of information and level of detail as, the Future Years Defense Program required to be submitted to Congress by the Department of Defense.

We have a section preserving the Coast Guard’s mission performance. Finally, section 761 of the bipartisan substitute is highly important language Senator Collins and I authored to maintain the structural and operational integrity of the Coast Guard, the authority of the Commandant, the nonhomeland security missions of the Coast Guard, and the service’s capabilities to carry out these missions even as it is transferred to the new Department.

In addition to transferring the Coast Guard as an independent, distinct entity reporting directly to the Secretary, the language states that the Secretary may or may not transfer any substantial or significant change to any of the nonhomeland security missions and capabilities of the Coast Guard without the prior approval by Congress in a subsequent statute.

The President may waive this restriction for no more than 90 days upon his declaration and certification to the Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver.

The language further directs that the Coast Guard’s authorities, functions, assets, organizational structure, units, personnel, and nonhomeland security missions shall be maintained intact and without reduction after the transfer unless specified otherwise in subsequent acts. This language does permit the Coast Guard to replace or upgrade any asset with an asset of equivalent or greater capabilities.

It also states that Coast Guard missions, functions, personnel, and assets—including ships, aircraft, helicopters, and vehicles—may not be transferred to the operational control of, or be diverted to the principal and continuing use of, any other organization, unit, or entity of the Department except under limited conditions.

Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary and not through any other official of the Department.

The inspector general of the Department shall annually assess the Coast Guard’s performance of all its missions with a particular emphasis on examining the nonhomeland security missions. The detailed results of this assessment shall be provided to Congress annually.

None of the conditions in the recommended language shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

The Coast Guard’s nonhomeland security missions—and the service’s capabilities to accomplish them—are as vital to the national and homeland security missions and capabilities.

No state is better than Alaska for demonstrating the importance of the Coast Guard’s nonhomeland security missions and capabilities.

The United States has a coastline of 96,000 miles. Alaska has a coastline of 47,300 miles, or almost 50 percent, of our Nation’s total.

Alaska’s fisheries are a billion dollar industry that delivers food to tables all across America and around the world. We harvested 5 billion pounds of seafood last year.

The Coast Guard plays an indispensable role in protecting and supporting the President in ensuring the safety of its participants. Just this summer, the Coast Guard dispatched additional assets to the maritime boundary line in the Bering Sea to guard against intrusions by Russian trawlers.

The Coast Guard’s nonhomeland security missions are marine safety, search and rescue, aids to navigation, living marine resources—including fisheries law enforcement, marine environmental protection, and ice operations—to support the well-being of Alaskans, and we rely on the Coast Guard virtually every day for protection and assistance in these mission areas.

The service’s homeland security missions are ports, waterways and coastal security, drug interdiction, migrant interdiction, defense readiness, and other law enforcement.

The language in the bipartisan substitute is intended to assure that the important homeland security priorities of the new Department will not eclipse the Coast Guard’s crucial nonhomeland security missions and capabilities.

This language modifies the committee provisions to reflect suggestions made by the Commandant and his senior staff after they analyzed the original language at my request.

Our additional language allows the Coast Guard to conduct joint operations more effectively with other entities, with coast guard law enforcement, with other law enforcement agencies, with other statutory city and county police forces, and with the city police department of the District of Columbia.

We have highlighted today still may restrict the President’s flexibility to establish and operate the new Department.

It is my understanding that the White House was a key participant in the drafting of the Bipartisan Substitute and that any significant language was reviewed for acceptability by the President’s advisors.

The President has stated repeatedly that he supports the language in the Bipartisan Substitute.

In his Radio Address to the Nation last Saturday, September 21, the President specifically stated that the Bipartisan Substitute would, and I quote, “provide the new Secretary of Homeland Security much of the flexibility he needs to move people and resources to meet new threats.”

I ask unanimous request to insert into the RECORD at the conclusion of my remarks the recent statements by the President and his spokesman that strongly endorse the bipartisan substitute.

I also ask unanimous request that an explanation of the start-up funding authorized in the bipartisan substitute be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1).

Mr. President, the bipartisan substitute underscores Congress’s legitimate role in the ongoing process to meet our Nation’s homeland security requirements responsibly and effectively. It is a significant improvement over the committee legislation which I did vote for.

I urge the Senate to adopt it without delay.

I thank my friend from Texas, Senator Gramm, for working with us so closely in adopting the portions of the bill from the substitute I just described. I thank the leadership for their cooperation.

EXHIBIT 1

PRESIDENT ENDSORES GRAMM-MILLER BIPARTISAN SUBSTITUTE

President urges Congress to pass Iraq resolution promptly, September 24, 2002, White House:

It’s time to get a homeland security bill done, one which will allow this President and this administration, and future Presidents—give us the tools necessary to protect the homeland. And we’re working as hard as we can, and I urge Phil Gramm, to get a limited number of Coast Guard military members or civilian employees to these entities for liaison, coordination, and operational purposes, and to replace or upgrade assets or change nonhomeland security capabilities with equivalent or greater assets or capabilities.

With the Bipartisan Substitute, I believe the Coast Guard will be in an even stronger position to carry out both its vital non-homeland security missions and its important homeland security responsibilities.

Finally, there have been claims that the improved statutory language I have highlighted today still may restrict the President’s flexibility to establish and operate the new Department.

The President’s language authorizes the new Secretary of Homeland Security with sufficient flexibility to meet new threats.

In his Radio Address to the Nation last Saturday, September 21, the President specifically stated that the Bipartisan Substitute would, and I quote, “provide the new Secretary of Homeland Security much of the flexibility he needs to move people and resources to meet new threats.”

I ask unanimous request to insert into the RECORD at the conclusion of my remarks the recent statements by the President and his spokesman that strongly endorse the bipartisan substitute.

I also ask unanimous request that an explanation of the start-up funding authorized in the bipartisan substitute be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1).

Mr. President, the bipartisan substitute underscores Congress’s legitimate role in the ongoing process to meet our Nation’s homeland security requirements responsibly and effectively. It is a significant improvement over the committee legislation which I did vote for.

I urge the Senate to adopt it without delay.

I thank my friend from Texas, Senator Gramm, for working with us so closely in adopting the portions of the bill from the substitute I just described. I thank the leadership for their cooperation.

EXHIBIT 1

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must be flexible, we must be strong, we must be ready to take the enemy anywhere he decides to hit us, whether it’s America or anywhere else in the globe.

Radio address by the President to the Nation, September 21, 2002:

In an effort to break the logjam in the Senate, Miller and Republican Senator Phil Gramm the leading sponsor and floor leader of the bipartisan alternative to the current flawed Senate bill. I commend them, and support their approach. Their proposal would provide us with the flexibility to develop a truly nonpartisan Department that will protect every employee of the new department while guaranteeing that we have the flexibility to deal with new threats. It will provide every employee of the new department with the opportunity to earn a living wage and to keep their fellow citizens safe through their service to America.

I ask you to call your senators and urge them to vote for this bipartisan alternative. Senators Miller and Gramm, along with Senator Fred Thompson, have made great progress in putting the national interest ahead of partisan interest.

Press briefing by Ari Fleischer, September 19, 2002:

Mr. FLEISCHER. The President today is going to announce his support for a bipartisan compromise, the Miller-Gramm compromise.

BASIS OF COST ESTIMATE INCLUDED IN BIPartisan SUBSTITUTE

The authorization of $160 million to begin departmental operations is based primarily on a CBCO cost estimate. That estimate is the best estimate we have.

OMB’s position is that no new funds are needed because start-up costs will be paid with funds diverted from agencies transferred to the Department.

However, the transferred agencies will need these funds to accomplish their missions.

Also, Congress should not relinquish its authority and oversight over funding reallocations in the Executive Branch.

Most of the COO’s estimate for FY03 would be spent in putting the new national interest ahead of partisan interest.

There are four major cost categories:

$90 million for salaries and other personnel expenses;

$50 million to rent new space or renovate existing facilities;

$50 million for a basic computer network and telecommunications system; and

$10 million to plan for a more sophisticated computer communications system to operationally integrate major agencies in the Department.

The 140 million estimate for general transfer authority was created by Committee staff to give the Department a $300 million total for first year operations.

The personnel costs assume that the new department will be capable of handling its support structure will be phased in over the next two years.

These include the Secretary, the Deputy, the Under Assistant Secretaries, and key managers such as the General Counsel and Inspector General.

It also includes “corporate” personnel, such as those needed for policy development, legislative affairs, and budget and finance activities.

The office space estimate is based on GSA experience in housing new agencies.

The cost estimate for preconstruction, design, and telecommunications systems will perform the Department’s administrative functions—budgeting, accounting, personnel records, etc.

A more sophisticated and interoperable computer and communications network to integrate the major operational entities, such as the Coast Guard, INS, Customs, Secret Service, and the Border Patrol, may cost more than $1 billion in later years.

Mr. President, I rise today in strong opposition to the labor provisions in the Gramm-Miller substitute amendment. This approach to homeland security undermines long-standing labor protections and a national commitment to the right to organize.

This amendment seems to rely on the unsupported premise that labor rights are somehow incongruous with national security. I know labor protections are directly in our national interest.

The people of the United States trust federal employees to stand at the frontlines in the war on terrorism and protect our nation against the myriad vulnerabilities that we may confront in the years to come. Border guards, INS workers, and customs agents are people who have the patriotic interest of our nation at heart and defend our waters and now protect our airports. Just as we are emphasizing the United States’ increasing reliance on these workers, it would demonstrate tremendous chutzpah for the United States to remove essential labor protections and question the commitment and responsiveness of these workers to our national challenges. Working Americans have often sacrificed much to save our nation and to subject them to political and unconstitutional discretion is an abdication of America’s long held belief in the political independence of our government operations.

But that is precisely what this amendment would do: eliminate hard fought labor protections as America calls on its employees to take on even greater responsibilities in the War on Terrorism.

For instance, in the name of management flexibility, the substitute amendment being considered here would eviscerate the civil service system, and I fear put all Americans at risk.

The new Department we are discussing today should not be a Republican Department or a Democratic Department but an American Department from start to finish. There is no room for partisan politics when it comes to defending the American people. This cabinet department is being created for security, a truly nonpartisan objective and it should stay that way.

In the event that this substitute amendment is accepted by the Senate, employees of the Department of Homeland Security whose views are out of sync with the official line could be dismissed or transferred with little of no justification. This would have a chilling effect on the ability of employees in this critically important department to perform their jobs with the competence and creativity that everyone would expect.

Furthermore, this amendment could undermine vital whistleblower protections designed to ensure that the Congress and the American public are kept aware of serious problems that might develop in the new Department. The so-called “management flexibility” provisions would have the effect of silencing the criticism by public employees that is desperately needed to improve America’s ability to defend its borders and protect its people. In fact, incentives to leak critical views would be drastically increased as official forms would no longer be easily available.

Let us be clear: the primary supporters of this amendment have never been supportive of the various labor protections provided to government employees. They never liked the civil service system, despite the fact that it prevents bureaucratic decisions from getting mired in politics. They oppose the application of Davis-Bacon laws to the new Department. Supporters of this amendment claim the whole purpose of the change is to increase management flexibility in the interests of national security, but make no mistake: this debate is about an ideological opposition to fundamental components of American labor law.

With all the waiver authority provided in Senator LIEBERMAN’s bill, it is difficult to see just how this legislation would tie the hands of the President. Few reasonable analyses believe it will.

When tragedy struck on September 11, thousands of firefighters and police officers rushed to the world trade center to save their fellow Americans. Their union membership did not make them any less patriotic. Union membership of law enforcement and firefighters across the nation is unquestioned and stands as an unalloyed bar to the bar to the undermining of labor rights. In this case, the political forces pushing for the substitute amendment result in undermining the very protection that they have long opposed. This is not a new approach to a new situation, but an old familiar refrain from opponents of labor policies that empower our federal government to protect us. This amendment undermines the very protection that American labor law was intended to ensure.

Mr. President, I for one, do not believe we should allow American workers to lose hard-fought labor protections while we are asking them to take
on even greater responsibilities and to assimilate into a new department. Clearly the authors of the Gramm-Miller amendment disagree. I urge my colleagues to oppose the Gramm-Miller amendment.

The PRESIDING OFFICER (Mr. Nelson of Nebraska). Who yields the floor?

Mr. GRAMM. Mr. President, I will be brief. By using cloture, this is an effort to put us into a straitjacket that will guarantee the President will not get an up-or-down vote on his program. That is something on which the United States has the right to have an up-or-down vote on his program. That is something on which the President must have an up-or-down vote on his program. That is something on which the U.S. has the right to have an up-or-down vote on his program.

Now one may be against the President; they may believe there are some priorities higher than the life and safety of our citizens. I do not. But whether one agrees with the President or not, when thousands of our citizens have been killed, when we are at war with terrorism, the President of the United States has the right to have an up-or-down vote on his program. That is what we insist on. We will not get that if cloture is voted for.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Could I inquire as to how much time we have remaining?

The PRESIDING OFFICER. Three and a half minutes.

Mr. GRAMM. Mr. President, before we vote, it is important we understand the nature of the actual work being carried out by the various employees—the President of the United States. Two challenges now can be made to the President’s activity. Now when you go to court, the President has to rebuttable presumption of regulator. There is still jurisdiction there, there is still an additional hurdle. Why in the world do we want to impose an additional hurdle for this President that we have not imposed on prior Presidents? That is No. 1.

Second, with regard to flexibility, the House sent over six areas of flexibility. The Nelson amendment takes two of those areas off the table altogether. The Nelson amendment says the new Secretary cannot touch the labor-management chapter. It says the new Secretary cannot touch the appeals chapter. Both are areas we know need changing. Both are areas we know need improvement. We cannot even negotiate with regard to those areas. They are totally off the table.

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

Mr. THOMPSON. I appreciate the attention of the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, the Senator from Texas has asked us to consider what is best for the security of the American people. What is best for the security of the American people is to quickly adopt legislation that creates a Department of Homeland Security to protect the country to maintain a stubborn insistence that before you are willing to do that, the President must have an up-or-down vote on his proposal. That is something on which the Republican House did not insist. They gave Members the opportunity to introduce amendments, including one just like this. I urge my colleagues, vote for cloture. Let’s adopt this bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The majority leader asked me to announce this is the last vote today. The next vote will occur at approximately 5 or 5:30 on Monday afternoon.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to Rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk reads as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738 to H.R. 5005, the Homeland Security legislation:

Harry Reid, Ben Nelson of Nebraska, Hill-

THE PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Gramm-Miller amendment numbered 4738 to H.R. 5005, the homeland security bill, shall be brought to a close? The yeas and nays are required under rule XXII.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Ms. Landrieu) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. Domenici), and the Senator from North Carolina (Mr. Helms) are necessarily absent.

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

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Breaux
Cantwell
Carnahan
Carper
Chafee
Chelan
Chesler
Clyde
Collins
Conrad
Corzine
Dayton

Allard
Allen
Bennett
Boxer
Brownback
Burns
Byrd
Campbell
Cooper
Collins
Craig
Craio
Daschle
DeWine
Ensign
Enzi

Arakaka
Baucus
Bayh
Biden
Bingaman
Breaux
Cantwell
Carnahan
Carper
Chafee
Chelan
Clyde
Collins
Conrad
Corzine
Dayton

NAYS—53

Akaka
Baucus
Bayh
Biden
Bingaman
Breaux
Cantwell
Carnahan
Carper
Chafee
Chelan
Clyde
Collins
Corzine
Ensign
Enzi

Allard
Allen
Bennett
Boxer
Brownback
Brennan
Burns
Byrd
Campbell
Cooper
Collins
Craig
Crapo
Daschle
DeWine

44
3

Yeas
Nays

Domenici
Helms
Landrieu

NOT投票—3

Domenici
Helms
Landrieu

The PRESIDING OFFICER. On this vote the yeas are 44, the nays 53.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DASCHLE. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the Gramm-Miller amendment No. 4738.

The PRESIDING OFFICER. The leader has that right. The motion is entered.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented...
under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows: CLOTURE MOTION

We, the undersigned Senators, in accord-
count with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738:

Joseph Lieberman, Max Baucus, Ben Nel-
son, Dianne Feinstein, Tim Johnson, Patrick Leahy, Jeff Bingaman, Jack Reed, Hillary Rodham
Clinton, Jim Jeffords, Debbie Stabenow, K. Akaka, Harry Reid, Maria Cantwell, Byron L. Dor-
gan, Herb Kohl.

Mr. LEVIN. Mr. President, I would like to say a few words about the Free-
dom of Information Act compromise that Senators BENNETT and LEAHY and I were able to achieve and which is in-
cluded in both the Lieberman and Gramm-Miller amendments.

One of the primary functions of the new Department of Homeland Security, DHS, will be to safeguard the nation's infrastructure, much of which is run by private companies. The DHS will need to work in partnership with private companies to ensure that our critical infrastructure is secure. To do so, the Homeland Security Legislation asks companies to voluntarily provide the DHS with information about their own vulnerabilities; the hope being that one company’s problems or solutions to its problems will help other companies with similar issues.

Some companies expressed concern that current law did not adequately protect their confidential business information that they are being asked to provide to the new DHS from public disclosure under the Freedom of Information Act. They argued that without a specific statutory exemption they would be less likely to voluntarily submit information to the DHS about critical infrastructures vulnerabilities. However, the Freedom of Information Act and the case law developed with respect to it already provide the protections these companies seek.

The language of our amendment protects from public disclosure the records of concern to these companies while preserving the existing rights of public access under FOIA. The amendment would protect from public disclosure any record furnished voluntarily and submitted to the DHS, but only if the record is both confidential and custom-
arily made available to the public.

The amendment makes clear that records that an agency obtains inde-
pendently of DHS are not subject to the provisions I just enumerated. Thus, if the record currently are subject to disclosure by another agency under FOIA, they will remain available under FOIA even if a private company submits the same information to DHS. The language also allows the provider of voluntarily submitted information to change a designation and certifi-
cation and to make the record subject to change a designation and certifi-
cation, marking, certification, care and stor-
age of voluntarily provided information as well as the protection and main-
tenance of the confidentiality of the voluntarily submitted information. The amendment defines the terms “critical infrastructure” and “furn-
ish voluntarily.” “Critical infra-
structure” is the same as that found in the USA Patriot Act. The term “furn-
ish voluntarily” excludes records that DHS requires an entity to submit and that are used to satisfy a legal ob-
ligation or requirement or obtain a grant, permit, benefit, or other govern-
ment approval that are ineligible for protec-
tion under FOIA. Similarly, this addi-
tion, this language does not preemt state or local openness laws. Finally, the language requires the General Ac-
counting Office to prepare a report tracking the voluntarily submitted in-
farmation to DHS, the number of FOIA requests for voluntarily submitted in-
farmation and whether those requests were granted or denied, and rec-
ommendations for improving the collection and analysis of information held by the DHS.

It is important to protect the public’s right to access information as the White House’s recent national strategy for homeland security points out. The White House report also notes that “the right to know about any dis-
covery must be done ‘without compro-
mising the principles of openness that ensure government accountability.’ I agree. We must move cautiously when enacting any legislation to withhold information, mindful of the need to protect the confidentiality of information submitted to the DHS under this amendment.

The principles of open government and the right-to-know of the people are cornerstones upon which our country was built. We cannot and will not hast-
ily and foolishly sacrifice them in the name of protecting them. This com-
promise achieves the balancing that is needed between openness and security. I thank Senators BENNETT and LEAHY for their work on developing this amendment.

Mr. LEAHY. Mr. President, in the wake of the terrorist attacks of Sep-
tember 11, bipartisan support in the Senate invited Governor Ridge to serve as a Cabinet post doesn’t solve anything.

In one respect, the White House was correct: Simply moving agencies around among Departments does not address the problems inside agencies such as the FBI or the INS—problems that related company to employees who report problems; lapses in intelligence sharing; lack of trans-
lation and analytical capabilities; along with what many have termed, “cultural problems.” The Judiciary Committee staff have been focusing on identifying those problems and finding constructive solu-
tions to fix them. To that end, the Committee unanimously reported the FBI Reform Act, S.1974, to improve the coordination of law enforcement and intelligence efforts, and his views on the role of the Na-
tional Guard in carrying out the home-
land security mission, but he declined. The Judiciary Committee about how the

The administration initially differed with this approach. Instead, the Presi-
dent invited Governor Ridge to serve as the Director of a new Office of Home-

land Security. I invited Governor Ridge in October, 2001, to testify before the Oversight and Government Reform Committee about how he would improve the coordination of law enforcement and intelligence efforts, and his views on the role of the National Guard in carrying out the homeland security mission, but he declined. The Judiciary Committee about how the
been stalled on the Senate floor by an anonymous Republican hold.

The White House made an abrupt about-face on June 6, 2002, on the issue of whether our national security could benefit from the creation of a new Department of Homeland Security. It was the same day that the Judiciary Committee was continuing its oversight responsibility and was scheduled to hear from FBI Director Robert Mueller and FBI Special Agent Coleen Rowley, whose testimony critically questioned the manner in which FBI Headquarters handled the investigation of Zacarias Moussaoui.

Thirty minutes before the nationally televised testimony from an FBI agent about intelligence failures before the September 11 terrorist attacks, word emerged from the White House that the President had changed his position and announced that he supported the formation of a new Homeland Security Department along the lines that Senator Bob Graham and Senator Joe Lieberman had suggested, though the draft of the President’s proposal was not yet completed. Indeed, press reports that day indicate that “Administration officials said the White House hoped to use the reorganization to deflect attention from the public backbiting that broke out among federal agencies as Congress began investigating intelligence failures surrounding the Sept. 11 attacks.”

Washington Post, June 6, 2002, at 12:52 PM.

Two weeks later, on June 18, 2002, Governor Ridge transmitted a specific legislative proposal to create a new homeland security department. It should be apparent to all of us that knitting together a new agency will not by itself fix existing problems. In writing the charter for this new department, we must be careful not to generate new management problems and accountability issues. Yet the Administration’s proposal would have exempted the new department from many legal requirements that apply to other agencies. The Freedom of Information Act would not apply; the conflicts of interest and accountability rules for agency advisors would not apply. The new Department head would have the power to suspend the Whistleblower Protection Act, the normal procurement rules, and to intervene in Inspector General investigations. In these respects, the Administration asked us to put the new department above the law and outside the checks and balances these laws are put there to ensure.

Exempting the new Department from laws that ensure accountability to the Congress and to the American people makes for soggy ground and a tenuous start—not the sure footing we all want for the success and endurance of this endeavor.

Specifically, the administration’s June proposal contained, in section 204, a new exemption requiring nondisclosure under the Freedom of Information Act, FOIA, of any “information” “voluntarily provided” to the new Department of Homeland Security by “non-Federal entities or individuals” pertaining to “infrastructure vulnerabilities or other vulnerabilities to terrorism” in the possession of, or that passed through, the new department. The term “voluntarily provided” was undefined.

The Judiciary Committee had an opportunity to query Governor Ridge about the Administration’s proposal on June 26, 2002, when he testified in his capacity to the Director of the Transition Planning Office for the proposed Department of Homeland Security. At that hearing, a number of Senators made clear that the President should not play politics with the proposal to create a new Department. One senior Republican member of the Judiciary Committee put it bluntly that action on the new Department should take place “without political gamesmanship,” I share that view.

We all wanted to work with the President to meet his ambitious timetable for setting up the new department. We all know that one sure way to slow up the legislation would be to use the new department as the excuse for the Administration to undermine or request or to stick unrelated political items in the bill under the heading of “management flexibility.” We all want the same end goal of an efficiently operating Homeland Security Department but as the same senior Republican member of the Judiciary Committee advised at the June 26 hearing, for the sake of getting the new department underway, “[t]here may well be areas of debate or issues that we in Congress need to save for another day.”

At that hearing, I cautioned the administration not to use the proposal for the new Department of Homeland Security to: No. 1, increase secrecy in government by creating a huge new exemption to the Freedom of Information Act for private sector security problems; No. 2, weaken whistleblower protections for dedicated Government workers who help fight Government waste, fraud and abuse; or No. 3, cut wages and job security for hardworking Government employees.

Governor Ridge’s testimony at that hearing is instructive. He appeared to appreciate the concerns expressed by Members about the President’s June proposal and to be willing to work with us in the legislative process find common ground to get the legislation done. On the FOIA, he described the Administration’s goal to craft “a limited statutory exemption to the Freedom of Information Act” to help “the Department’s most important missions (which) will be to protect our Nation’s critical infrastructure.”

Governor Ridge explained that to accomplish this, the Department must be able to “collect information, identifying key infrastructure, evaluate vulnerabilities, and match threat assessments against those vulnerabilities.”

The FOIA already exempts from disclosure matters that are classified: trade secret and commercial and financial information, which is privileged and confidential; various law enforcement records and information, including confidential source information; and FBI records pertaining to foreign intelligence or counterintelligence, or international terrorism. These already broad exemptions in the FOIA are designed to protect national security and public safety.

Indeed, the head of National Infrastructure Protection Center, NIPC, testified over 5 years ago, in September, 1996, that the private sector’s FOIA excuse for failing to share information with the Government was, in essence, baseless. He explained the broad application of FOIA exemptions to protect from disclosure information received in the context of a criminal investigation or national security investigation, including information submitted confidentially or even anonymously. This is from the Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information.

Hearing on Critical Infrastructure Protection: Toward a New Policy Directive,” on March 17 and June 10, 1996. The FBI also used the confidential business record exemption under (b)(4) “to protect sensitive corporate information, and has, on specific occasions, entered into agreements indicating that it would do so prospectively with reference to information yet to be received.” NIPC was developing policies to grant owners of information certain opportunities to assist in the protection of the information (e.g., by sanitizing the information themselves) and to be involved in decisions regarding further dissemination by the NICP.” In short, the former administration witness stated:

Nevertheless, businesses have continued to seek a broad FOIA exemption. I expressed my concerns about the overly-broad FOIA exemption would encourage government complicity with private firms to keep secret information about critical infrastructure vulnerabilities, reduce the incentive to fix the problems and end up hurting rather than helping our national security. In the end, more secrecy may undermine rather than foster security.

Governor Ridge seemed to appreciate these risks and said he was “anxious to work with the Chairman and other Members of this Committee to assure that the concerns that [I] had raised are properly addressed.” He assured us that “[t]his Administration is ready to
work together with you in partnership to get the job done. This is our priority, and I believe it is yours as well.”

Almost before the ink was dry on the Administration’s earlier proposal, on July 18, the Administration proposed to submit a broader new FOIA exemption that would (1) exempt from disclosure under the FOIA critical infrastructure information voluntarily submitted to the new department that was designated as confidential by the submitter without the submitter’s prior written consent, (2) provide limited civil immunity for use of the information in civil actions against the company, with the likely result that regulatory actions would be preceded by litigation by companies that submitted designated information to the department over whether the regulatory action was prompted by a confidential disclosure, (3) preempt state sunshine laws if the designated information is shared with state or local government agencies, (4) impose criminal penalties of up to one year imprisonment on government employees who disclosed the designated information, and (5) extend antitrust immunity to companies that joined together with agencies designated by the new President to promote critical infrastructure security.

Despite the Administration’s promulgation of two separate proposals for new FOIA exemption in as many weeks in July, Governor Ridge’s Office of Homeland Security released The National Strategy for Homeland Security, which appeared to call for more study of the issue before legislating. Specifically, this report called upon the Attorney General to “convene a panel to propose any legal changes necessary to enable sharing of essential homeland security information between the government and the private sector.”

The need for more study of the Administration’s proposed new FOIA exemption was made amply clear by its possible adverse environmental, public health and safety affect. Keeping secret problems in a variety of critical infrastructures would simply remove public pressure to fix the problems. Moreover, several environmental groups pointed out that, under the Administration’s proposal, companies could avoid enforcement action by “voluntarily” providing information about environmental problems to the EPA, which would then be unable to use the information to hold the company accountable and also would be required to keep the information confidential. It would bar the government from disclosing information about spills or other violations without the written consent of the company that caused the pollution.

At the request of Chairman Lieberman for the Judiciary Committee’s views on the new department, I shared my concerns about the Administration’s proposed FOIA exemption and then worked with Members of the Governmental Affairs Committee—and in particular, with Senator Levin and Senator Bennett—to craft a more narrow and responsible exemption that accomplishes the Administration’s goal of encouraging private companies to share records of critical infrastructure vulnerabilities with the new Department of Homeland Security. I believe that providing incentives to “game” the system of enforcement of environmental and other laws designed to protect the nation’s public health and safety.

I commend Chairman Lieberman and Senators Levin and Bennett and their staffs for diligently working with me to refine the FOIA exemption in a manner that satisfies the Administration’s stated goal, while limiting the risks of abuse by private companies or government agencies.

Specifically, section 198 on “Protection of Voluntarily Furnished Confidential Information” of the Lieberman Amendment to H.R. 5005 reflects the compromise solution we reached voluntarily to the Administration and other Members interested in this important issue. This section exempts from the FOIA certain records pertaining to critical infrastructure threats and vulnerabilities that are submitted to the new Department and designated by the provider as confidential and not customarily made available to the public. This provision improves on the Administration’s July 18 proposal in the following ways:

First, section 198 limits the FOIA exemption to “records” submitted by the private sector, not “information” from the private sector. Therefore, if companies provide information to the new Department that is documented in an agency-created record, that record will be subject to the FOIA and not exempt simply because private sector information is referenced or contained in the record. Moreover, this section makes clear that records that are not covered by the exemption should be released pursuant to FOIA requests, unlike the Administration proposals which would have allowed the withholding of entire records if any part is exempt.

Second, section 198 limits the FOIA exemption to records pertaining to “the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) not all critical infrastructure information.”

Third, section 198 does not provide any civil liability or antitrust immunity that could be used to immunize bad actors or frustrate regulatory enforcement action.

Fourth, section 198 limits the FOIA exemption to records submitted to the new Department of Homeland Security, as in the administration’s initial June 18 proposal, since the stated goal of the exemption is to help that Department provide a centralized function of collection, review and analysis of critical infrastructure vulnerabilities. Records submitted by private companies to other agencies are not covered by the new exemption, even if the same document is also submitted to the new Department.

Fifth, section 198 does not preempt state or local sunshine laws. Section 198 narrowly defines “furnished voluntarily” to ensure that records submitted by companies to obtain grants, permits, licenses or other government benefits are not exempt, but are still subject to the FOIA process. This section is a significant improvement over both versions of the Administration’s proposed new FOIA exemptions.

Unfortunately, other critical areas that were mentioned at the June 26 hearing with Governor Ridge, on which he assured us he would work with us to find common ground, remain stumbling blocks. The Administration has threatened a veto over the issue of “management flexibility.” At the same time we are seeking to motivate the government workers who will be moved to the new Department with an enhanced sense of mission, the Administration is insisting on provisions that threaten the job security for these hardworking government employees. The Administration should not use this transition as an excuse to cut the wages and current workplace security and rights of the brave employees who have been defending the nation. That is not the way to encourage retention or recruitment of the vital human resources on which we will need to rely, and it is a sure way to destroy the bipartisanship we need.

Mr. Allen, Mr. President, I rise to speak in support of an amendment that I have offered to assist Federal employees who have been injured on the job. My good colleagues, Senator Warner of Virginia and Senators Clinton and Schumer of New York, join me in this important effort. This provision was inspired by Mrs. Louise Kurtz, a Federal employee who sustained an on-the-job injury in the September 11 attack on the Pentagon. She suffered burns over 70 percent of her body, lost her fingers, yet fights daily in rehabilitation and hopes to return to work one day. Current law does not allow Mrs. Kurtz to contribute to her retirement program while she is recuperating and receiving Office of Worker’s Compensation Programs disability payments. As a result, after returning to work she will find herself inadequately prepared and unable to afford to retire because of the lack of contributions during her recuperation period.

As Mrs. Kurtz’s situation reveals, Federal employees under the Federal Employees Retirement System who have sustained an on-the-job injury and are receiving disability compensation from the Department of Labor’s Office of Worker’s Compensation Programs are unable to make contributions into their security or the Thrift Saving Plan. Therefore, the future retirement benefits from both sources are reduced.
The provision I have offered corrects this shortfall in the Federal Employees Retirement System, FERS. By increasing a Federal employee’s FERS direct benefit by 1 percent for a period of extended convalescence resulting from a work-related injury, the future contributions on Social Security and Thrift Savings Plan, TSP, benefits that result from the inability to make contributions during periods of disability are offset.

The retirement program for Federal Employees Retirement System employees has three distinct parts: Social Security, Federal Employees Retirement System Defined Benefit and Thrift Savings Plan. Social Security taxes and benefits are the same for all participants. The Federal Employees Retirement System Defined Benefit and the Thrift Savings Plan are similar to defined benefit and 401(k) plans in the private sector. Unlike the impact on Social Security and the Thrift Savings Plan, periods during which an individual is receiving Office of Worker’s Compensation Programs disability payments are not counted in the calculation of the length of service for determining the Federal Employees Retirement System Defined Benefit retirement payments. To explain how the provision will work, I offer the following illustration.

As you know, Mr. President, the goal of the Federal Employees Retirement System is to provide retirement pay totaling about 56 percent of the highest three years’ average pay. Under the Old Civil Service Retirement System, a direct benefit plan, two percent of a person’s salary was set aside to provide the retirement benefit of 56 percent employees did not pay into Social Security or a vested savings plan. Under Federal Employees Retirement System, one percent of a person’s salary is set aside to provide the Federal Employees Retirement System Defined Benefit retirement payment of 26 percent of their ‘high three’ annual salary with Social Security and Thrift Savings Plan retirement pay contributing the remaining 30 percent for a total of 56 percent. But increasing the Federal Employees Retirement System Direct Benefit calculation by one percentage point for extended periods of disability, one can adequately offset the shortfall in the Federal Employees Retirement System Defined Benefit retirement payments.

Louise Kurtz has earned our appreciation for the role she and her husband Michael have played in identifying this shortfall in Federal Employees Retirement System and in persevering in getting legislation introduced to address the problem. Indeed, Mrs. Kurtz continues to serve the American public even while recuperating from injuries sustained in the terrorist attack upon the Pentagon.

Mr. REID. Mr. President, the Senator from Wisconsin has been waiting for a long time. The Senator from Pennsylvania is here to offer a unanimous consent request. It is my understanding that it would take 2 minutes. So I appreciate the courtesy of the Senator from Wisconsin.

UNANIMOUS CONSENT REQUEST—H.R. 4895

Mr. SANTORUM. Mr. President, I thank the Senator from Wisconsin and Nevada.

I rise to offer a unanimous consent request for the Senate to consider the partial-birth abortion bill that passed the House recently. We have been working diligently for the past 18 months, since the Supreme Court decision, to craft a partial-birth abortion bill that meets the constitutionality muster of the Nebraska decision. We think we have accomplished that, and I would argue that the House agrees with us.

The House recently passed this legislation 274 to 151. I understand time is short, and we have held this bill at the desk. I am hopeful and have been working to try to get a unanimous consent agreement to bring up this legislation for debate and discussion. We are willing to do it on a very limited time agreement, limited amendments, or as many amendments as the other side thinks is necessary. This is an important piece of legislation. It is one the President said he would sign. It is one that received an overwhelming bipartisan vote in the House. I believe it will have a very strong bipartisan vote in the Senate.

While I understand this unanimous consent will be objected to this evening, I am hopeful we can continue to work together to try to bring up this very important piece of legislation that has been voted on here at least in the last three sessions of Congress with very strong majorities. Unfortunately, it was vetoed by President Clinton. We now have a President who will sign it. We have language that will meet constitutional muster. We will continue to work and seek the unanimous consent request to bring this up.

I now offer that request. I ask unanimous consent that the time be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to the consideration of Calendar No. 521, H.R. 4965, a bill to prohibit the procedure commonly known as partial-birth abortion. I further ask unanimous consent that there be one relevant amendment on each side, with 1 hour of debate equally divided between the majority leaders or their designees; provided further that following the use or yielding back of time, the bill be read the third time and the Senate proceed to a vote on passage of the bill, with no further intervening action or debate.

Mr. REID. Reserving the right to object, Mr. President, the Senator from Pennsylvania is absolutely right. Time is so critical. Separate and apart from the time involving this matter, there are a number of Senators who have spoken to me personally about their objection to proceeding to this matter, if it came to the floor while I was here. Senator FEINSTEIN was the last to have spoken to me in this regard.

I note an objection.

The PRESIDING OFFICER. Objection is heard.
The Senator from Wisconsin.

IRAQ

Mr. FEINGOLD. Mr. President, I rise to comment on the administration’s discussion draft of a resolution authorizing the use of force against Iraq. This proposal is unacceptable. The administration has been talking about war in Iraq for quite some time now. Surely they had the time to draft a more careful, thoughtful proposal than the irresponsibly broad and sweeping language that they sent to Congress.

I regret that the administration put forward such broad language as a negotiating tactic—asking for everything in the hopes of getting merely a lot.

But we are not haggling over a used car. We are making decisions that could send young Americans to war and decisions that could have far-reaching consequences for the global campaign against terrorism and for America’s role in the world in the twenty-first century.

To put forth such irresponsible language is to suggest that the President actually wants the authority to do anything he pleases in the Middle East—and that suggestion is likely to raise tensions in an already explosive region. To pepper the resolution with so many completely different justifications for taking action signals a lack of seriousness of purpose, and it obscures the nature of the conflict.

And then to insist on immediate action while remaining largely incapable of pointing to any imminent threat and unwilling to flesh out the operation actually being proposed means a troubling approach to our national security.

The administration has a responsibility to define what the threat is. Is it the global campaign against terrorism? Or is WMD the real threat? Is it the real possibility that this focus on Iraq was to be used as a distraction to mask the real threat? Or is it the real possibility that this focus on Iraq was to be used as a distraction to mask the real threat?

The threat the administration has underscored—Iraq’s pursuit of weapons of mass destruction or WMD—is unquestionably a very serious issue. What is the mission? Is the mission to destroy Saddam Hussein, or is it regime change? Has anyone heard a credible plan for securing the weapons of mass destruction sites as part of a
military operation in Iraq? Has anyone heard any credible plan for what steps the United States intends to take to ensure that weapons of mass destruction do not remain a problem in Iraq beyond the facile “get rid of Saddam Hussein” policy? Saddam Hussein is a vile man with a reckless and brutal history, and I have no problem agreeing that the United States should support regime change. I agree with those who assert that Americans and the people of the Middle East would be much better off if he were no longer in power. But he is not the sole personification of a destabilizing WMD program. Once Hussein’s control is absent, we have either a group of independent, self-interested actors with access to WMD or an unknown quantity of a new regime. We may face a period of some chaos, wherein a violent power struggle ensues as actors maneuver to succeed Saddam.

Has anyone heard the administration articulate its plan for the day after? Is the administration talking about a long-term occupation? If we act unilaterally, that could mean a vast number of Americans on the ground in a region where we have often regarded as an imperialistic enemy.

Given the disarray in Afghanistan and the less than concerted American response to it, why should anyone believe that we will take Iraq more seriously? Certainly, it is undesirable for the United States to do this alone, to proceed with open arms; that somehow the administration will “work it out.” That is not good enough. We must not fail to demand a policy that makes sense.

Let me be clear about another important point: Maybe a policy that makes sense involves the United Nations, but maybe it does not. It is less important whether our actions have a formal U.N. seal of approval. What is important is whether or not action has international support. If that support is absent, then how, or not action will promote international hostility toward the United States.

In the context of this debate on Iraq, we have been too quick to embrace a sweeping new national doctrine. I am troubled by the administration’s emphasis on preemption and by its suggestion that, in effect, deterrence and contain-ment are obsolete. What the administration is talking about in Iraq really sounds much more like prevention, and I wonder if they are not using these terms, “preemption” and “prevention” interchangeably. Preemption is knowing that an enemy plans an attack and not waiting to defend oneself. Prevention is knowing that another may possibly someday attack, or may desire to attack, and justifying the immediate use of force on those grounds. It is the difference between having information to suggest that an attack is imminent before determining that given government is antagonistic toward the United States and continues to build up its military capacity.

It is the difference between having intelligence indicating that a country is in negotiations with a questionably hostile and violent enemy like al-Qaida to provide them with weapons of mass destruction and worrying, on the other hand, that someday that country might engage in such negotiations.

Of course, prevention does have an important role in our national security planning. It certainly should. We should use a range of tools in a focused way to tackle prevention—diplomatic, sometimes multilateral, economic. That is part of any foreign policy, and I stand ready to work with my President and my colleagues to bolster those preventive measures and to work on the long-term aspects of prevention, including meaningful and sustained engagement in places that have been far too neglected.

Unilaterally using our military might to pursue a policy of prevention around the world is not likely to be seen as self-defense abroad, and I am not sure what actions we might engage in that will make the United States any safer. Would a world in which the most powerful countries use military force in this fashion be a safer world? Would it be the kind of world in which our national values could thrive? Would it be a world in which terrorism would wither or would it be one in which terrorist recruits will increase in number every day?

Announcing that we intend to play by our own rules, which, let us say, if we will make war, may not be conducive to building a strong global coalition against terrorism, and it may not be conducive to combating the anti-American propaganda that passes for news in so much of the world.

Fundamentally, I think broadly applying this new doctrine is at odds with our historical national character. We will defend ourselves fiercely if attacked, but we will not look for a fight. To put it plainly: Our country historically has not sought to use force to make over the world as we see fit.

I am also concerned this approach may be seen as a green light for other countries to engage in their own pre-emptive or preventive campaigns. Is the United States really eager to see a world in which such campaigns are launched in South Asia or by China or are we willing to say this strategy is suitable for us but dangerous in the hands of anybody else?

The United States does have to rethink our approach to security threats in the wake of September 11, but it is highly questionable to suggest that containment is dead, that deterrence is dead, particularly in cases in which the threat in question is associated with a state and not nonstate actors, and it is highly questionable to embark on this sweeping strategy of preventive military action sooner rather than later.

So as we seek to debate Iraq and other issues critical to our national security, I intend to ask questions, to demand answers, and to keep our global campaign against terrorism at the very top of the priority list. This Senate is responsible to all of the citizens of the United States, to the core values of this country, and to future generations of Americans. We will not flinch from defending ourselves and protecting our national security, but we will not take action that subordinates what this country stands for. It is a tall order, but I am confident that America will rise to the occasion.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, is the Senate in a period of morning business?

The ACTING PRESIDENT pro tempore. We are not.

Mr. REID. Mr. President, I ask, therefore, unanimous consent the Senate proceed to a period of morning business, with Senators allowed to speak therein for a period of 5 minutes each.

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

TRIBUTE TO U.S. COAST GUARD PORT SECURITY UNIT 308

Mr. LOTT. Mr. President, I rise today to honor U.S. Coast Guard Port Security Unit 308 from Gulfport, MS. Port
Security Unit 308 deployed to Southwest Asia for 6 months in support of Operation Southern Watch in March 2002 after the terrorist attack on the World Trade Center and Pentagon. The unit was able to quickly restructure and produce a 53-person detachment for harbor operations located in the Minasalmon area of responsibility. Water-ski patrolied over 4300 underway hours that included 291 escorts of U.S. Fifth Fleet Naval ships along with performing 1,481 intercepts. In addition to the escorts and intercepts, over 230 inspections were conducted. During the past six months while performing AT/FP, USCG PSU 308 Detachment Foxtrot was responsible for the safety of over 25,000 military personnel.

I would also like to recognize MK1 Eddie Spann and BM2 Billy McLeod who were recognized for their outstanding performance by being selected as Sailors of the Month, June 2002, for Naval Security Forces, Naval Support Activity, Bahrain.

I ask all my colleagues to join me in a round of applause for the fine individuals who are dedicated to winning the war on terrorism.

The following members from Port Security Unit 308 deployed in support of Operation Southern Watch:


Mr. INOUYE. S THORMOND will house an exhibit dedicated to the history of the United States Army Reserve nearly 80 years ago. In 1959, he retired as a major general after serving 36 years in reserve and active duty.

On D-day, June 6, 1944, Lieutenant Colonel Thurmond boarded an Army CO4A glider and flew behind enemy lines into Normandy. He served as Governor of South Carolina. Later he was elected President of the United States, receiving the third-largest independent electoral vote in U.S. History.

In 1944, he was elected to the U.S. Senate as a write-in candidate. Today, he is the oldest and longest serving Member of the Senate.

I have been privileged to know and work with Senator Thurmond for nearly 40 years. I wish to thank him for his wealth of wisdom. I will always cherish his friendship.

But Senator Thurmond is not only my colleague and friend, he is also my brother-in-arms. During World War II, anti-tank gunners from my regiment, the 442nd Regimental Combat Team, assaulted southern France in 1944. Like Senator Thurmond, they went into battle abroad gliders without armor. Glider-borne assaults were extremely dangerous and risky; some would even say they were suicidal missions. However, they were a necessary component of the United States’ invasion and liberation of Nazi-occupied France.

Senator Thurmond demonstrated rare courage, patriotism, and leadership as gliderman of the 82nd Airborne Division. Most glider descents were ‘controlled crashes’— and that was the case when Senator Thurmond’s glider landed in Normandy. Although he was injured, he managed to safely lead his men to the 82nd Airborne Division headquarters at daybreak. The 82nd went on to accomplish its difficult objective of seizing and securing key positions in enemy territory.

I am pleased to report that Senator Thurmond’s distinguished military service will be honored with the naming of a new section of the Airborne and Special Operations Museum in Fayetteville, NC. The Thurmond Wing will house an exhibit dedicated to the courageous combat gliderman of World War II.

As a Senator, Strom Thurmond has often taken positions that were not universally supported. Yet one could always be certain that his decisions were honest. He is passionate in his beliefs, and his commitment to serving his constituents has been exemplary.

At the end of our service in the Congress, we, his fellow Senate Members, can only hope that we will be able to say we have served our people with the diligence and devotion that Senator Thurmond has served his people. In closing, I would tell my colleagues this: Senator Thurmond has served his country and I am pleased that they appear to be working the way Congress intended. The study also suggests that enhanced enforcement and prosecution of gun laws at the federal, state, and local level have had a significant impact.

The drop in gun dealers is an important step in the effort to reduce firearms violence in the U.S. But despite this decline, private, unlicensed gun dealers who operate out of their homes and garages. I voted for the Brady Bill and Federal crime bill, and I am pleased that they appear to be working the way Congress intended. The study also suggests that enhanced enforcement and prosecution of gun laws at the federal, state, and local level have had a significant impact.

THE DROP IN FEDERALLY LICENSED FIREARMS DEALERS IN AMERICA

Mr. LEVIN. Mr. President, earlier this week the Violence Policy Center, VPC, released a new study entitled ‘The Drop in Federally Licensed Firearms Dealers in America.’ It found that the number of gun dealers holding Type 1 Federal Firearms Licenses, FFLs, a basic license to sell guns, dropped 74 percent from 245,628 in January 1994 to 63,881 in April 2002 or more than 181,000. The study finds that the U.S. has experienced the third largest reduction in the U.S., a drop of 75 percent from 12,076 dealers in 1994 to 3,016 in 2002.

According to the study, the decrease is the result of licensing and renewal criteria contained in the Brady Law and 1994 Federal crime bill. These changes were designed to reduce the number of private, unlicensed gun dealers who operate out of their homes and garages. I voted for the Brady Bill and Federal crime bill, and I am pleased that they appear to be working the way Congress intended. The study also suggests that enhanced enforcement and prosecution of gun laws at the federal, state, and local level have had a significant impact.

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which allows dealers to shift firearms from their business inventory to their personal collections and then sell those guns without performing a background check. This proposal deserves serious consideration to evaluate whether it will help to keep guns out of the hands of criminals prohibited under law from possessing a gun.

I urge my colleagues to support commonsense gun safety legislation.

DEWINE NEXT GENERATION LIGHTING INITIATIVE

Mr. DORGAN. Mr. President, I am a cosponsor of the DeWine amendment to the Interior appropriations bill and am pleased to rise in support of it. The Next Generation Lighting Initiative is a research initiative designed to promote new, alternative, highly efficient technology for lighting to save energy and money, and reduce emissions. It would leapfrog over current technology. We use essentially the same light bulbs that Thomas Edison invented over 90 years ago. If successful, the Next Generation Lighting Initiative would make available new solid-state lighting that would be ten times more efficient than today’s incandescent light bulbs. The concept is similar to fuel cells that also would leapfrog to a technology of the future and reduce our dependence on the traditional internal combustion engine.

I joined 22 other Senators in signing a letter to Appropriations Chairman BYRD and Ranking Member BURNS to support $30 million in increased funding for this new lighting technology research initiative.

The current Interior appropriations bill provides $4 million for this Initiative. The amendment being offered today would increase this funding to $10 million. While a sizable increase, this $10 million would still be only 3 percent of what we had initially sought.

Specifically, the increased funding is needed to overcome pre-competitive research hurdles associated with white light illumination from solid-state devices. It is important to fund new, clean energy technologies to provide sustainable economic development for the future.

Lighting consumes about 20 percent of the energy generated in the United States. Over the next 20 years, this new next generation lighting technology could reduce global electricity usage for lighting by 20 percent and reduce total global electricity consumption by 10 percent.

Many groups and Members support increased funding for this important initiative. Mr. President, I thank my colleagues from Ohio and New Mexico for their support and the chairman of the Appropriations Committee for his assistance and for his good work on this bill.

DANIEL PATRICK MOYNIHAN LAKE CHAMPLAIN BASIN PROGRAM ACT OF 2002

Mrs. CLINTON. Mr. President, I am pleased to have joined with Senator JEFFORDS, as well as Senators LEAHY and SCHUMER, in introducing the “Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002.”

I thank Chairman JEFFORDS, with whom I have the honor and pleasure of serving on the Senate Environment and Public Works Committee, for introducing this legislation. I have always been proud of it in tribute to my predecessor, New York Senator Daniel Patrick Moynihan. Senator JEFFORDS is a great Chairman, a great environmental leader, and a great supporter of this natural and cultural resource that our states share—the Lake Champlain Basin and the Champlain Valley. I am proud also to be a sponsor of legislation authored by Senator JEFFORDS to establish the Champlain Valley National Heritage Partnership.

The Lake Champlain Basin is a unique and beautiful region, bounded by the Green Mountains of Vermont and the Adirondack Mountains of New York. It is a place of majestic mountains, deep, clear lakes, and abundant cultural, historic, and natural resources. The Lake is the sixth largest natural freshwater lake in the United States, and home to a many species of fish, birds and other wildlife.

We need to protect and enhance the environmental integrity and the social and economic benefits of the Lake Champlain basin. And that is precisely what we aim to do through this legislation, which will authorize $55 million over the next 5 years for this purpose.

That this legislation and this program are being named after Senator Daniel Patrick Moynihan is a most fitting tribute. Senator Moynihan was, and still is, a great advocate of Lake Champlain Basin and to the Lake Champlain Valley, whether supporting the rich heritage and history of the area, or protecting the environmental quality of the Lake and Basin.

Senior Moynihan appreciates that the environmental quality of the Lake and basin are key to the vitality of the area as a whole, and worked tirelessly during his tenure to protect the health of the basin. Naming the Lake Champlain Basin Program Act and the program itself after Senator Moynihan is a fitting tribute to his efforts to ensure that this natural treasure will survive for generations to come.

As we all remember, it was in 1990 that Senator Moynihan joined with Senator JEFFORDS, as I am joining with him today, in sponsoring the invaluable Lake Champlain Special Designation Act. The act outlined an unprecedented collaboration among broad interest groups to protect the environmentally sensitive Lake Champlain Basin. It added real activity and economic revitalization in the basin area. Under the act, the Lake Champlain Management Conference was created and charged with developing a comprehensive plan for pollution prevention and water quality restoration.

The legislation that we are introducing builds upon the Lake Champlain Special Designation Act of 1990, in which Senator Moynihan played a key role during the 101st Congress. It also builds upon the plan that came out of that 1990 legislation, entitled “Opportunities for Action.” The plan was approved by the Lake Champlain Stakeholders Committee three years ago and is the guiding document for this new legislation, which will provide new and important resources for counties in Vermont and for Clinton, Essex, Franklin, Hamilton, Warren and Washington counties in New York State.

This is important environmental legislation, but it is also important economic development legislation for key areas of upstate New York. Therefore, I am proud to sponsor this legislation with Chairman JEFFORDS, and to name this legislation after my illustrious and esteemed predecessor, Senator Daniel Patrick Moynihan.

SUPPORT OF RENEWABLE FUELS PROVISION

Mr. JOHNSON. Mr. President, I rise to urge the House Senate Energy Bill conference to resist efforts from House Republican conferees to alter or weaken the renewable fuels standard that was included in the Senate energy bill. The new standard was crafted in a consensus manner and supported by a strong majority in the Senate. It must remain intact in the conference report.

Earlier this Congress, I introduced a bill with Senator CHUCK HAGEL of Nebraska, the Renewable Fuels for Energy Security Act of 2001, S. 1006, to ensure future growth for ethanol and biodiesel through the creation of a new, renewable fuels content standard in all motor fuel produced and used in the United States. The framework of this bill was included in the Senate energy bill, requiring that 5 billions gallons of transportation fuel be comprised of renewable fuel by 2012, nearly a tripling of the current ethanol production. While the House of Representatives version of the bill did not include a renewable fuels standard, this issue was thoroughly debated on the Senate floor during consideration of the energy bill.

Several amendments were offered to weaken or eliminate the renewable fuels standard but all of those efforts were soundly defeated. And for good reason: $6.6 billion in new fuel production lessens our dependence upon foreign oil, strengthens energy security, increases farm income, creates jobs, helps the environment, helps our international balance of trade, and would lower annual federal farm payments.

In addition, the new standard boosts economic growth in rural America. I do not need to convince anyone in South
Dakota and other rural States of the benefits of ethanol to the environment and the economies of rural communities. Farmer-owned ethanol plants in South Dakota, and in neighboring States, demonstrate the hard work and commitment to being expended to serve a growing market for clean domestic fuels. In South Dakota, six ethanol plants are operating to produce approximately 138 million gallons per year. Four other ethanol projects are under construction, with a combined capacity to produce an additional 138 million gallons of ethanol annually.

Increasingly, many ethanol plants in South Dakota are equipped to produce 40 million gallons of ethanol per year, such as the plants operating in Wentworth, Watertown, and near Milbank, as well as the proposed sites under construction in Chancellor and Groton. The economic benefits of one, 40 million gallon ethanol plant are significant, including an increase of household income for the community by $20 million annually.

The bill has other important provisions, including an orderly phase-down of MTBE use and removal of the oxygen content requirement for reformulated gasoline, RFG. The new standard has strong bipartisan support and is the result of long and comprehensive negotiations between farm groups, the oil industry and environmentalists. It is the first time that a substantive agreement has been reached on this issue.

Including the Senate-passed renewable fuels standard in the conference will go a long way towards increasing the Nation’s domestic energy supply and making it more secure in the future. However, after no renewable fuels provision was included in the House energy bill, House Republican conference, have chosen to introduce an unworkable alternative. At the eleventh hour, that has received no debate and has no consensus.

This is not acceptable. The conference should adopt the Senate-passed standard immediately. After a long debate, a consensus has been reached on this issue, demonstrating bipartisan support for a broader, deeper and more diverse energy portfolio, one that ensures we have clean, reliable and affordable domestic sources of energy.

Let’s move forward and enact the Senate language into law.

ADDITIONAL STATEMENTS

HOME SAFETY MISHAPS COST AMERICANS Dearly

• Mr. EDWARDS. Mr. President, this morning on the National Mall a report entitled “State of Home Safety in America” was unveiled by David Oliver, Executive Director of the Home Safety Council. The study, conducted by Dr. Carol Runyan of the University of North Carolina at Chapel Hill, was recognized by Dr. Sue Binder of the Center for Disease Control and Prevention, paints a picture of far too many Americans being hurt by unintentional injuries and deaths in this nation. For instance, the study found that: Unintentional injuries are the fifth leading cause of death in the United States. Unintentional injuries in the home result in nearly 20,000 deaths and 13 million medical visits. Unintentional home injuries cost nearly $380 billion each year and account for an estimated 10 percent of all visits to emergency rooms.

The Home Safety Council, a not-for-profit organization devoted to home safety, has already been working to educate Americans on the risks they face every day in their own homes. The Great Safety Adventure is a traveling hands-on educational experience that teaches basic life skills to help children, families and communities.

Americans need to know the risks that exist in their homes and what they can do to prevent home injuries. This study will be an important resource for all Americans and will be a benchmark for examining future trends in home injury prevention. I urge my colleagues to join me in this monumental effort to educate and save American lives by informing our constituents of the risks present in their homes and the steps they can take to prevent unintentional home injuries and keep families safe. More details are available through the Home Safety Council’s Web site, www.homesafetycouncil.org.

For agreement and for raising the issue of home safety in the Congress, I congratulate the Home Safety Council and its distinguished board of directors.

TRIBUTE TO THE GRADUATES OF THE BOSTON DIGITAL BRIDGE FOUNDATION TECHNOLOGY PROGRAMS

• Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to the impressive achievements of those who have graduated this year as part of the Boston Digital Bridge Foundation’s Technology Goes Home and TechBoston programs.

This evening at Franklin Park in Dorchester, MA, the City and the Boston Digital Bridge Foundation are hosting “Evening on the Bridge 2.0,” a celebration of the graduates of these two programs.

Working with businesses, universities, schools, government, families and community-based organizations, the Boston Digital Bridge Foundation organizes and facilitates partnerships to link Boston public school students and their parents to the Internet. These programs have helped over 5,000 Boston Public School students and their families.

Technology Goes Home is a ten-week technology training program for low-income families. It has a rigorous selection process and a community service requirement in addition to the program. Upon graduating from the program, each family receives a new computer, printer and Internet access.

TechBoston provides advanced technology courses for Boston Public School students at the middle and high-school level. They teach high-tech skills essential for success in careers and post-secondary education. Currently, over 2,500 Public School Students are enrolled in these innovative programs.

Technology skills are no longer a luxury for students, they are a necessity. Without knowledge of computers and the Internet, today’s students will have great difficulty competing in tomorrow’s economy. When used effectively in the classroom and at home, modern technology can level the playing field and open extraordinary new horizons and opportunities for all students and their parents.

That’s why we are so strongly committed to the Boston Digital Bridge Foundation. The City is at the cutting edge of education technology and has become a national model, thanks to the leadership of Mayor Thomas M. Menino and the skillful work of the community partners involved in these two innovative programs. Over 4,000 participants in six Boston neighborhood schools, every high school, and middle schools are enrolled in the programs.

We are all proud of the remarkable progress that Boston has made in helping to close the digital divide. A coalition of leaders in business, labor, educators and government has successfully together to connect all of Boston public schools to the Internet, and is in the process of bringing this technology home to all Boston Public School families.

Dozens of large and small organizations have made donations to these programs. AT&T Broadband, the Barr Foundation, the Bill and Melinda Gates Foundation, the Boston Redevelopment Authority, FleetBoston Financial, Hewlett-Packard, HIQ Computers, Intel, Keane Inc., Lexmark, MCI, Microsoft, PARTRNERS+simons, Sallis Mae Foundation, 3Com, Verizon and Xintra and others have done more than their share, donating products and services to schools, including wiring, network equipment, computers and other supplies. All the equipment donated by these firms is new, and Verizon and America Online have donated free Internet access. This kind of participation has become a model for the nation.

Thanks to the Boston Digital Bridge Foundation and its supporters, we can now guarantee that Boston Public School students and their families have access to the Internet and the opportunities that it creates. We are doing all we can to see that every student in every Boston neighborhood will soon have the same opportunity.

I commend these Boston families and students for their efforts and accomplishments in expanding employment opportunities, improving school grades,
and strengthening their community. To all involved, it is a job well done. I ask to have printed in the RECORD the names of this year’s graduates of these programs of the Boston Digital Bridge Foundation.

This material is as follows:

2002 BOSTON DIGITAL BRIDGE FOUNDATION GRADUATES

ALLSTON BRIGHTON NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Mayreau Y. Allen and Leyla Antillon; Gabriella Campozano and Nicholas Campozano-Hill; Marta Gonzalez and Jonathan Ramos; Jei Lin and Pui Lin; Zaheruddin Mohamed and Ana Maria Alves Morales and Adriana Rodriguez; Sofia Nikollara and Teodor Nikollara; Tahera Amin and Shikir Amin; Diana Chavez and Jesus Chavez; Kesi Garber and JeanKay Simón; Magnolia Giraldo and David Mejía; Li Zhen Huang and Shirley Li; Wanda Jesuso and Raul Jesuso; Donna O’Brien and Derek O’Brien; Patricia Ready and Tyler Maddock; Selso Regalis and Glorisel Regalis; Rosetta Robinson and Quanasia Robinson; Clara Baex and Nylah Baex; Maria Berda and Maria Santa; Foujia Chowdhury and Isteaque Chowdhury; Ana Gonzalez and Gisselle Gonzalez; Natasha Iftica and Koati Joanne Johnson and Manca Tesiolas; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Tsolias.

GROVE HALL NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Ida Allen and Jessica Allen; Joyce Bowden and Rashad Bowden; Joseph Higginbottom and Dominique Higginbottom; Cesar Rodriguez and Malika Gordon; Debra Owens and Amanda Owens; Jennifer Queen and Durrell Queen; Bonnie Reynolds and Brandon Reynolds; Beverly Byner and Lynette Byner; Sonya Galvez and Cecily Galvez; Kimberly Harrison and Ira Harrison; Sherri Marshall-White and Jasmine Miller; Dhiaanne Miller and Thuron Green; Corinne Riley and Tyler Riley; Leontine Robinson and Neftai Robinson; Shirley Straughter and Jasmine Harris; Dawn Thomas and Vanlite Thomas; Brandon Valentin and Brandon Valentin; Wanda Aviles and Johnny D. Guante; Moni Bryant and Princess Bryant; Phyllis Clemons and Charles Clemons III; Muriel Cummins and Juelle Cummins; Crysta Edwards and Kennethn Pannell; Mildred Freeman and Rasool Adkins; Tracey Green and Tiandria Wells; Annette Lavia and Shaniqierka Lavia; Deborha McRae and Shalaan Williams; Carlos Milfort and Christina Milfort; Angel Smiley and Angelica Smiley; Vivian Smith and Jerome Smith; Jason Stephens and Sharon White; Brenda Trimble and Trevor Cargill; Regina Walker and Samara Walker; Tashema Woods and Mickel James; Christine Page and Porto Gonz; Cynthia Cornélius and Kettenni Corneelis; Bettie Cutler and Tanzenia Smith; Tanya Gayle and Jovian Huff; Roshelle Reid and Kristien Reid; Velda Singleton and Jugerth Singleton; Annette Bonds and Deshon Jones; Michelle Jones and Deshon Jones; Jovian Huff; Grace Johnson and Edwin John; Michelle Jones and Deshon Jones; Gwendolyn McLean and Harold Kirk; Michelle Santos-Thomas and Tatyana Dancy; Stephanie Swan and Tanisha Swan; Scotland Williams and Scottt Williams, Jr.; Iris Yates and Nakiya Weaver; Evander Young and Ebony Jones; Jessica Cash and Jewal Cash Van Stakes; Maryse Cazeau and Nastajha Cazeau; Deborah Cole and Lynette Cole; Katrina Brown and Shelton T. Veale; Frances Valentine and Courtneay Valentine; Kella Price and Keila Cooper.

LOWER Roxbury NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Miosotty Baez and Ramon Baez; Lyda Cartwright and Cortland Cartwright; Sheryl Debarros and Cortney Carter; Latonya Perry and Shakera Perry; Michelle Santos-Thomas and Tatiana Dancy; Stephanie Swan and Tanisha Swan; Scotland Williams and Scottt Williams, Jr.; Iris Yates and Nakiya Weaver; Evander Young and Ebony Jones; Jessica Cash and Jewal Cash Van Stakes; Maryse Cazeau and Nastajha Cazeau; Deborah Cole and Lynette Cole; Katrina Brown and Shelton T. Veale; Frances Valentine and Courtneay Valentine; Kella Price and Keila Cooper.

MISSION HILL/PENNATY NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Sanyeh Beuzmal and Noah Tewedeal; Carmen Cordero and Carmen Lopez; Thelma Dierkson and Bridget Dierkson; Valeria D’Ejogo and Nneka Lamarr; Abadit Ghidey and Beshthewe Ghidey; Charlene Hunt and Ishia Hunt; Diane Jackson and Dana Jackson; Albertha Davis and Brittnay Walker; Vivian Izuchi and Lotachi Izuchi; Michael Latson and Jaronn Heath; Ketley Mondesir and Kerry Montgomery; Sara Phillips and Paullette Phillips; Arlindo Pires and Arnoldo Pires; Maria Barbosa and Dulce Mendes; Annette Bonds and Jason Bloom; Delores Della and Deshawn Della; Sophia Rice and Dathan Rice; Nicholas Taylor and Beverly Barclay; Sonia Villaruel and Dashawn Tripplett; Townsend Bowden and Dennis Privott; Tashika Coles and Tashsea Coles; Sandra Correa and Raymond Sanabia; Latoya Cromartie and Danielle Cromartie; Erica Cummings and Brittnay Walker; Venitte Burke and Beverly A. Rock; Bridgette Sandiers and Jovian Huff; Gwendolyn McLean and Harold Kirk; Michelle Santos-Thomas and Tatyana Dancy; Stephanie Swan and Tanisha Swan; Scotland Williams and Scottt Williams, Jr.; Iris Yates and Nakiya Weaver; Evander Young and Ebony Jones; Jessica Cash and Jewal Cash Van Stakes; Maryse Cazeau and Nastajha Cazeau; Deborah Cole and Lynette Cole; Katrina Brown and Shelton T. Veale; Frances Valentine and Courtneay Valentine; Kella Price and Keila Cooper.

TRIBUTE TO CARL THOMPSON

Mr. FEINGOLD. Mr. President, today I pay tribute to the memory of Carl Thompson, one of the founders of Wisconsin’s modern Democratic Party. I was proud to know Carl, and had the pleasure of serving with him in the Wisconsin State Senate. Wisconsin was lucky to have him as a leading voice for and descriptive of our State.

Carl was the youngest delegate at the founding convention of the State Progressive convention in Wisconsin. From those early days he never wavered from his commitment to an honest Government that truly served the interests of the people.

Twice the Democratic candidate for Governor, Carl spent a lifetime dedicated to serving Wisconsin, whether he was running for the State’s top office or was serving 30 years in the Wisconsin State Senate. He also served as a member of the State’s Labor and Industry Review Commission.

S9417

September 26, 2002
When I served with Carl in the 1980s, I was struck, as was everyone who knew Carl Thompson, by his dedication to the great State of Wisconsin, and to the people he served. He was a powerful advocate for veterans’ housing, and was a tireless leader in the battle for the importance of preserving our First Amendment freedoms. Carl Thompson was also a great storyteller with a wonderful wit and sense of humor.

I am deeply saddened by Carl Thompson’s passing, but I know that his leadership has left a lasting mark on the Wisconsin Democratic Party, and our State. He will be remembered for many years to come.

MESSAGE FROM THE HOUSE

At 11:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2982. An act to authorize the establishment of a memorial to victims who died as a result of terrorist acts against the United States or its people, at home or abroad.

H.R. 4691. An act to prohibit certain abortion-related discrimination in governmental activities.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:


The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 297. Concurrent resolution recognizing the historical significance of 100 years of Korean immigration to the United States; to the Committee on Energy and Natural Resources.

H.R. 4600. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on September 26, 2002, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 111. A joint resolution making continuing appropriations for the fiscal year 2003, and for other purposes.

MEASURES REferred

The following bill was read the first time:

S. 238. An act to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

S. 1175. An act to modify the boundary of Vickelands and Military Park to include the property known as Pemberton’s Headquarters, and for other purposes.

H.R. 4600. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 297. Concurrent resolution recognizing the historical significance of 100 years of Korean immigration to the United States; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4691. An act to prohibit certain abortion-related discrimination in governmental activities.

S. 3009. A bill to provide economic security for America’s workers.

The following joint resolution was read the first time:

S.J. Res. 45. Joint resolution to authorize the use of United States Armed Forces against Iraq.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

S. 3009. A bill to provide economic security for America’s workers.
Resolved further, That copies of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-312. A resolution adopted by the General Assembly of the State of New Jersey relating to designating the fifteenth of May as National Grandparents Day; to the Committee on the Judiciary.

Resolved, That copies of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-314. A resolution adopted by the General Assembly of the State of New Jersey relating to designating the fifteenth of May as National Grandparents Day; to the Committee on the Judiciary.

Resolved, That copies of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-314. A resolution adopted by the General Assembly of the State of New Jersey relating to designating the fifteenth of May as National Grandparents Day; to the Committee on the Judiciary.

Resolved, That copies of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-314. A resolution adopted by the General Assembly of the State of New Jersey relating to designating the fifteenth of May as National Grandparents Day; to the Committee on the Judiciary.

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Resolved, That copies of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-314. A resolution adopted by the General Assembly of the State of New Jersey relating to designating the fifteenth of May as National Grandparents Day; to the Committee on the Judiciary.

Resolved, That copies of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-314. A resolution adopted by the General Assembly of the State of New Jersey relating to designating the fifteenth of May as National Grandparents Day; to the Committee on the Judiciary.
Whereas, In 1994, Congress approved Senate Joint Resolution No. 196, which recognized that grandparents bring a tremendous amount of love to their grandchildren’s lives, deepen a child’s self-esteem and strengthen a child’s development and often serve as the primary caregiver for their grandchildren by providing stable and supportive home environments. In 1995 as the “Year of the Grandparent”; and

Whereas, In making these designations, Congress acknowledged the important role grandparents play within families and their many contributions which enhance and further the value of families and their traditions, and recognized that public awareness of the many contributions made by older parents should be strengthened; and

Whereas, For both “National Grandparents Day,” and the “Year of the Grandparent,” in 1995, Congress called on the people of the United States and interested groups and organizations to observe the day and year with appropriate ceremonies and activities; and

Whereas, Despite the acknowledgement of the tremendous contributions grandparents make to their families’ lives, the permanent designation of a day to observe “National Grandparents Day,” the year-long designation of 1995 as the “Year of the Grandparent,” as well as the call for appropriate ceremonies, the actual observance of appropriate ceremonies and activities has been lacking; and

Whereas, A wholehearted national effort to encourage people and organizations to celebrate “National Grandparents Day” by planning appropriate programs, ceremonies and activities would go a long way to commemo- rate and honor the wonderful and vital contributions that grandparents make to the lives of their families: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The Congress and President of the United States are respectfully memorialized to make a wholehearted national effort to encourage people and organizations to celebrate “National Grandparents Day” by planning appropriate programs, ceremonies and activities that commemorate and honor the wonderful and vital contributions that grandparents make to the lives of their families.

2. Duty authenticated copies of this resolu- tion, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States, the Secretary of Health and Human Services of the United States, the presidents of the United States Senate and the United States House of Representatives, and each of the members of Congress elected from this State.

POM-316. A resolution adopted by the General Assembly of the State of New Jersey relative to Clean Air Act requirements; to the Committee on Environment and Public Works.

Whereas, Studies by the 37-state Ozone Transport Assessment Group have demonstrated that sulfur dioxide and nitrogen oxide can travel up to 500 miles in the right climatic conditions and the transport of these pollutants, generally in a northeastern pattern, can have significant impacts on the ozone problem in downwind northeast states such as New Jersey.

Whereas, On December 3, 1999, then New Jersey Governor Whitman announced that the State would join the federal government and other states in taking legal action to require Midwestern power plants to clean up their emissions; and

Whereas, On February 14, 2002, President Bush announced his Clear Skies and Global Climate Change Initiatives which would replace current federal air pollution control rules with a national emissions cap and trade system which would likely provide Midwestern power plants, refineries and other industrial sources with an exemption from the New Source Review program; and

Whereas, Implementation of the New Source Review program would require installation of air pollution controls when older power plants refiners other and industrial facilities are expanded or significantly changed; and

Whereas, Earlier this year, New Jersey’s largest utility agreed to install state-of-the-art pollution controls on two power plants in the State as part of a settlement with the Environmental Protection Agency and the New Jersey Division of Environmental Protection Agency regarding the New Source Review program; and

Whereas, While this action is a significant step in New Jersey’s efforts to control air pollution from in-State sources, there must be stronger federal enforcement of clean air standards if our efforts to protect the citizens of New Jersey, and out-of-State power plants should be required to install similar state-of-the-art pollution controls in order to achieve lasting improvements in air quality; and

Whereas, The current proposed federal reg- ulations to changes to the Clean Air Act stand- ards would significantly compromise the gains New Jersey and the nation have made in air pollution control, would undermine the United States Department of Justice has taken to enforce compliance with federal Clean Air Act requirements, and would be detrimental to the environment and the public health of citizens of this State: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. This House urges the President of the United States and the Administrator of the United States Environmental Protection Agency to not weaken federal Clean Air Act requirements.

Duly authenticated copies of this resolu- tion, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice-President of the United States, the Speaker of the United States House of Rep- resentatives, the majority and minority leaders of the United States Senate and the United States Congress elected from this State, the Administrator of the United States Environmental Protection Agency, and the Commissioner of the New Jersey Department of Environmental Protection.

POM-317. A resolution adopted by the General Assembly of the State of New Jersey relative to enacting legislation to permit retired members of the Armed Forces with service-connected disabilities to be paid both military retired pay and veterans’ disability compensation; to the Committee on Armed Services.

ASSEMBLY RESOLUTION

Whereas, An obscure 19th Century law requires military retired pay to be offset, dol- lar for dollar, by the amount of disability compensation received from the Department of Veterans Affairs; and

Whereas, This longstanding inequity forces thousands of disabled career military retir- ees to fund their own veterans’ disability compensation from their earned military retired pay; and

Whereas, Retired pay and veterans’ dis- ability compensation are two entirely dif- ferent compensation elements—retired pay is provided to recognize a career of arduous, unpredictable service and veterans’ Affairs disability compensation is rec- ompense for pain, suffering and lost future earning power due to service-connected dis- abilities; and

Whereas, Thousands of career officers must forfeit their entire military retired pay be- cause this 19th Century law reduces their reti- rement benefit by the amount they receive in disability compensation; and

Whereas, Companion bills pending before the 109th Congress, H.R. 170 and H.R. 363, would permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of disability and veterans’ disability compensation from the Department of Veterans Affairs; and
Resolved, by the General Assembly of the State of New Jersey:

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice President of the United States, the Majority and Minority Leaders of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and every member of Congress elected from this State.

Resolved by the General Assembly of the State of New Jersey:

Whereas, Residents of New Jersey suffer from unexplained aircraft noise, and noise exposure in urban and suburban areas; and

Whereas, Aircraft noise contributes to the substantial lowering of property values on residences owned by New Jersey residents; and

Whereas, The Federal Aviation Administration, hereafter the “FAA,” is currently undertaking a major redesign of the aircraft traffic patterns over New Jersey; and

Whereas, The FAA’s stated goals for the redesign include only reducing delays affecting air travelers, and reducing pilot and air traffic controller workloads, while enhancing safety; and

Whereas, The FAA, despite repeated public promises to prominently reduce aircraft noise as part of the redesign, has refused to include such noise reduction as a primary goal of the redesign: now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The President and the Congress of the United States are respectfully memorialized to direct the Federal Aviation Administration to include the reduction of aircraft noise as a major goal in the redesign of aircraft traffic patterns over New Jersey; and

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice President of the United States, the Speaker of the United States House of Representatives, every member of Congress elected from New Jersey, the Secretaries of the United States Department of Transportation, and the Administrator of the Federal Aviation Administration.

Resolved by the General Assembly of the State of New Jersey, for the public policy reasons set forth in the preamble to this resolution, memorializes the Congress and the President of the United States to enact a long-term solution to the Nation’s rail crisis by providing for the continuation of national passenger rail service by Amtrak.

Resolved by the General Assembly of the State of New Jersey:

1. The General Assembly of the State of New Jersey, for the public policy reasons set forth in the preamble to this resolution, memorializes the Congress and the President of the United States to enact a long-term solution to the Nation’s rail crisis by providing for the continuation of national passenger rail service by Amtrak.

Resolved by the General Assembly of the State of New Jersey:

Whereas, The Federal Government under the Constitution of the United States has the responsibility for the regulation of interstate commerce and has taken on the responsibility by legislation for the creation of an Interstate Highway System and a national airport system, both of which receive substantial financial support from federal appropriations; and

Whereas, With the formation of Amtrak, the Congress of the United States empha-
thesized the importance of a federal commitment to a national rail passenger system, but now the President of the United States has decided to limit Amtrak’s ability to continue operations until October 1, 2002, such a prelude for Amtrak that will permit it to con-
tinue operations until October 1, 2002, such short-term support beg the question of the long-term future of national rail passenger service; and

Whereas, The Cable Television and Cable Communication Policy Act of 1992 increased the public policy reasons set forth in the preamble to this resolution, memorializes the Congress and the President of the United States to enact a long-term solution to the Nation’s rail crisis by providing for the continuation of national passenger rail service by Amtrak.

Resolved by the General Assembly of the State of New Jersey:

Whereas, The “Cable Communication Policy Act of 1996” totally deregulated the cable service industry and prohibited the States from regulating either cable rates or cable programming; and

Whereas, Subsequent to the 1984 deregula-
tion of the cable industry, rapidly escalating cable rates and declining levels of service led to the passage of the “Cable Television Consumer Protection and Competition Act of 1992” which essentially protected govern-
ment rate regulation of the cable industry; and

Whereas, The “Cable Television Consumer Protection and Competition Act of 1992” was adopted to promote greater competition as a means of addressing the cable industry’s problems and eliminated most of the “Cable Television Consumer Protection and Competition Act of 1992” by the end of 1999, including the phasing out of fed-
eral price controls over cable rates; and

Whereas, The “Cable Communication Policy Act of 1996” totally deregulated the cable service industry and prohibited the States from regulating either cable rates or cable programming; and
Whereas, Following passage of the federal “Telecommunications Act of 1996,” cable programming service rates have increased by over 60 percent, or of which increase zero percent relates to State law, and a competitive free market fails to restrain the predatory practices that occur when cable television companies enjoy de facto monopolies under the guise of franchise fees they serve; and

Whereas, The rate hikes increase the past year again indicate that a competitive free market fails to restrain the predatory practices that occur when cable television companies enjoy de facto monopolies under the guise of franchise fees they serve; and

Whereas, In light of the cable rate increases of the past few years, it is appropriate for Congress to reconsider the deregulation of the cable television industry as enacted by the federal “Telecommunications Act of 1996” and the “Cable Communications Policy Act of 1984” and permit States to fully regulate the cable television industry, including the regulation of cable television rates, in order to curb the anti-consumer practices of the cable company, monopolies; and

Whereas, It is altogether fitting and proper for this House, as representatives of the residents of this State, which itself established a regulatory framework for cable television in the 1972 “Cable Television Act,” to call upon Congress to reconsider the deregulation of the cable television industry as enacted by the federal “Telecommunications Act of 1996” and the “Cable Communications Policy Act of 1984” and permit States to fully regulate the cable television industry, including the regulation of cable television rates: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey

1. The Congress of the United States is respectfully memorialized to reconsider the deregulation of the cable television industry and permit States to fully regulate the cable television industry.

2. That duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested to by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and transmitted to the Secretary of the Senate of Congress from the State of New Jersey.

POM-322. A resolution adopted by the General Assembly of the Commonwealth of Massachusetts relative to anti-semitism; to the Committee on Foreign Relations.

Resolved, Whereas, in 2002, 57 years after the Holocaust, anti-Semitism is still among the most enduring and pernicious forms of hate that humankind has known; and

Whereas, anti-Semitism is on the rise in Europe and in other corners of the globe and Jews are being attacked in the streets, synagogues are being vandalized and cemeteries are being desecrated; and

Whereas, Jews are being demonized by political leaders, clergy and the mainstream media; and

Whereas, Jewish citizens and Jewish institutions have been targeted for hate mail, hateful speech and hateful acts; and

Whereas, in the wake of this rising tide of anti-Semitism governments and institutions have been silent; and

Whereas, the time has come to speak out against the wave of hate; Therefore be it

Resolved, The United States Senate, the State law, and the Federal Court urges the Congress of the United States to pass a resolution condemning anti-Semitism and asking other leaders, governments and citizens to speak strongly against the spread of hate; and be it further

Resolved, That copies of these resolutions be forwarded by the Clerk of the House of Representatives to the President of the United States, the President of each branch of Congress and to the Members thereof from this Commonwealth.

POM-323. A Senate concurrent resolution adopted by the Legislature of the State of Louisiana relative to the return of the USS Pueblo to the United States; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 16

Whereas, over the past few years there has been an undersized seafood being dumped into the United States of America; and

Whereas, the vast majority of these imported products have come from the countries of Thailand, India, Mexico, Ecuador and Indonesia; and

Whereas, the magazine, Quick Frozen Foods International noted in a January, 2002 article, that Asian shrimp tested in Germany had traces of an antibiotic called “chloramphenicol.”Whereas, this antibiotic is banned in the European Union countries because it is believed to cause bone marrow damage; and

Whereas, before States does not require such testing, much of this imported shrimp flooded the American market for prices much lower than American shrimp and may be in violation of anti-dumping laws; and

Whereas, such flooding of the domestic market has greatly affected the price of American shrimp to levels not seen in twenty years; and

Whereas, Louisiana residents can help Louisianan fisher by demanding and buying Louisiana shrimp instead, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to impose a quota on certain imported seafood such as shrimp, be it further

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States Senate and the House of the Commonwealth of Pennsylvania.

POM-324. A Senate Joint Memorial adopted by the Congress of the United States relative to the return of the USS Pueblo to the United States Navy; to the Committee on Foreign Relations.

SENATE JOINT MEMORIAL 02-001

Whereas, The USS Pueblo, which was attacked and captured by the North Korean Navy on January 23, 1968, was the first United States Navy ship to be hijacked on the high seas by a foreign military force in over 150 years; and

Whereas, One member of the USS Pueblo crew, Duane Hodges, was killed in the assault while the other 82 crew members were held in captivity, often under inhumane conditions, for 11 months; and

Whereas, The USS Pueblo, an intelligence collection auxiliary vessel, was operating in international waters at the time of the capture, and therefore did not violate North Korean territorial waters; and

Whereas, The capture of the USS Pueblo has resulted in no reprisals against the government or people of North Korea and no military action was taken at the time of the vessel’s capture, or at any later time.

Whereas, The USS Pueblo, though still the property of the United States Navy, has been retained by North Korea for more than 30 years and is subject to exhibition in the North Korean cities of Wonsan and Hungam, and is now on display in Pyongyang, the capital city of North Korea; and

Whereas, United States Senator Ben Nighthorse Campbell recently began a legislative effort in Congress that North Korea return the USS Pueblo to the United States Navy: Now, therefore, be it

Resolved, That copies of this Joint Memorial be transmitted to the President of the United States, George W. Bush; the United States Secretary of Defense, Donald Rumsfeld; the United States Senator, Colin Powell; the United States House of Representatives; and to each member of Colorado’s delegation of the United States Congress.

POM-325. A Resolution adopted by the House of the Commonwealth of Pennsylvania relative to funding for the National Park Service to purchase the Schoevel Tract, which lies in the boundaries of the Valley Forge National Historical Park; to the Committee on Energy and Environmental Resources.

HOUSE RESOLUTION NO. 401

Whereas, Approximately 460 acres of the 3,466 acres that comprise the Valley Forge National Historical Park are privately owned; and

Whereas, A 62-acre tract of the privately owned land is currently under consideration as the site of a subdivision for approximately 62 luxury homes; and

Whereas, The construction of homes within the Valley Forge National Historical Park from which the cultural environment the park provides for millions of people who visit each year; and

Whereas, The owners of the 62-acre tract of land are willing to sell the land to the National Park Service; Therefore be it

Resolved, That the Congress of the United States appropriate such funds from the National Park Service to purchase the privately owned 62-acre tract of land, which will help to ensure the preservation of the park as a national historic site; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the United States Senate and to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.


HOUSE RESOLUTION NO. 488

Whereas, Much of the domestic steel industries are heavily burdened by overwhelming retiree health care costs, or legacy costs, due to the massive layoffs of the 1970s and 1980s which were necessary to make domestic steel production competitive in this advanced global market; and
Whereas, These layoffs increased the retiree-to-employee ratio to nearly three to one and increased the difficulty for domestic steel producers to maintain benefits for retired steelworkers and their families, has called for Federal action to protect the economic well-being of the United States, to the presiding officers of each House of the United States, to the Speaker of the House of Representatives, the Chairmen of the Senate and House Judiciary Committees, to each Senator and Representative from California in the Congress of the United States, and to the Immigration and Naturalization Service and the United States Customs Service.

POM-328. A Senate Concurrent Resolution adopted by the Legislature of the State of Louisiana relative to the use of Title I funds to address the educational needs of students; to the Committee on Health, Education, Labor, and Pensions.

Whereas, the Legislature of Louisiana also recognizes that the consequences of any disruption of services will adversely impact the economically and educationally disadvantaged students who may not qualify for Medicare coverage, and

Whereas, Approximately 600,000 retirees, surviving spouses and dependents receive health care benefits from domestic steel companies, with the largest and most vulnerable of these companies providing retiree health care benefits to approximately 100,000 retirees, surviving spouses and dependents; and

Whereas, Because 29 domestic steel companies have declared bankruptcy since the Asian financial crisis of 1998, retirees health care benefits are at risk as a cost-cutting measure; and

Whereas, Retirees displaced by plant shutdowns shoulder the burden of their medical costs as they may be unable to afford or qualify for private health insurance programs or may not qualify for Medicare coverage; and

Whereas, The United Steelworkers of America, realizing the risk to individuals and families, has called for Federal action to protect the benefits of domestic steelworker retirees: Therefore be it

Resolved, That the House of Representatives of the State of Pennsylvania urge the President and Congress of the United States to take all necessary action to preserve the health care benefits of steel industry retirees; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each House, and to each member of Congress from Pennsylvania.

POM-327. A Joint Resolution adopted by the Assembly of the State of California relative to the Mexicali/Calexico border crossing; to the Committee on the Judiciary.

Whereas, Persons wishing to cross the international border between Mexico and California have traditionally been subject to long wait times during peak periods; and

Whereas, The heightened security regime implemented since the September 11, 2001, terrorist attacks on the United States has been an important hardship for residents of the San Diego Cities along the border; and

Whereas, The economic well-being of the border regions in both the United States and Mexico is dependent on flows of people and goods across the border with a minimum of delay; and

Whereas, The economy of Imperial County depends heavily on shoppers from Mexico; and

Whereas, Federal officials have successfully implemented reduced border wait times for persons qualifying for use of the Secure Electronic Network For Travelers Rapid Inspection (SENTRI) program, which provides access to a dedicated commuter lane and uses automated vehicle identification technology at a limited number of United States international border crossings, including Otay Mesa crossing near Tijuana and San Diego; and

Whereas, Persons eligible for the SENTRI program have been previously identified as low risk travelers who regularly use the border crossing; and

Whereas, The SENTRI program provides law enforcement with good, solid information about participants, allowing the need to continuously inspect these precleared individuals; and

Whereas, It would be beneficial to commerce and tourism on both sides of the border to implement the SENTRI program at the Mexicali/Calexico border crossing in order to decrease the border wait times for both United States and Mexican citizens; and

Whereas, The Government of the State of Baja California has indicated its interest in expanding the SENTRI program: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the United States Congress and federal agencies, including the Immigration and Naturalization Service and the United States Customs Service, be authorized to implement the SENTRI program at the Mexicali/Calexico border crossing; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Chairmen of the House and Senate Judiciary Committees, to each Senator and Representative from California in the Congress of the United States, and to the Immigration and Naturalization Service and the United States Customs Service.

Whereas, Louisiana's total Title I allocation for 2001–2002 of over one hundred and ninety-one million dollars is distributed to local education agencies and targets eight hundred and sixty-three elementary and secondary schools with the highest percent-ages of children from low-income families to provide a tax credit to companies for the cost of converting from groundwater to reclaimed water and to provide interest free loans to municipalities to construct waste water treatment/reclamation projects; to the Committee on Finance.

SENATE RESOLUTION NO. 27

Whereas, the Federal Energy Policy Bill is being debated in Congress and energy production is vital to Louisiana; and

Whereas, merchant power plants and other energy producers currently using groundwater should be encouraged to change to alternative sources; and

Whereas, the Legislature of Louisiana recognizes that the water quality of receiving water bodies is threatened by non-compliance with existing water quality standards and the discharge of untreated wastewater into aquatic environments; and

Whereas, the Legislature of Louisiana also recognizes the need for assistance to water treatment/reclamation projects in the State to provide a tax credit to companies for the cost of converting from groundwater to reclaimed water and to provide interest free loans to municipalities to construct waste water treatment/reclamation projects; to the Committee on Finance.

RESOLVED, That the Legislature of Louisiana hereby memorializes the Congress of the United States to request the appropriate state officials at the United States Department of Education to review the federal laws and guidelines with respect to assuring that the appropriate education needs of students is not jeopardized in cases in which the management and implementation of such funds by a local education agency are being examined; be it further

Resolved, That a copy of this Resolution be forwarded to each member of the Louisiana Congressional delegation and to the presiding officers of the United States House of Representatives and the United States Senate.
Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation of the United States Congress.

POM-331. A Resolution adopted by the Senate of the Legislature of the State of Alaska relative to the Pledge of Allegiance; to the Committee on the Judiciary.

RESOLUTION NO. 2

Whereas this country was founded on religious freedom by pioneers, many of whom were deeply religious; and

Whereas the First Amendment to the United States Constitution embodies principles that protect individual freedom of religion both through the free exercise of religion and by prohibiting the government’s establishment of a religion; and

Whereas the Pledge of Allegiance was written by Francis Bellamy, a Baptist minister, and was first published in the September 8, 1892, issue of Youth’s Companion; and

Whereas, in 1954, the United States Congress added the words “under God” to the Pledge of Allegiance; and

Whereas, in accordance with decisions of the United States Supreme Court, public school students cannot be forced to recite the Pledge of Allegiance without violating their First Amendment rights; and

Whereas, for nearly 50 years, the Pledge of Allegiance has included references to the United States flag and the country; this country, has been established as a union, “undecided to securing liberty and justice for all”; and

Whereas, in 1954, the United States Congress believed it was acting constitutionally when it revised the Pledge of Allegiance; and

Whereas, the Senate of the 107th United States Congress believes that the Pledge of Allegiance is not an unconstitutional expression of patriotism; and

Whereas patriotic songs, engravings on United States legal tender, engravings on federal buildings, and the Preamble to the Constitution of Alaska also contain general references to “God”; and

Whereas, in accordance with decisions of the United States Supreme Court, public school students cannot be forced to recite the Pledge of Allegiance without violating their First Amendment rights; and

Whereas, Congress expects that the United States Court of Appeals for the Ninth Circuit will rehear the case of Newdow v. U.S. Congress, en banc, and resolves to intervene in the case to defend the constitutionality of the Pledge of Allegiance; be it

Resolved, That the Senate of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation of the United States Congress.

POM-332. A Senate Concurrent Resolution adopted by the Senate of the State of Louisiana relative to the creation of a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana, to the Committee on Health, Education, Labor, and Pensions.

RESOLUTION NO. 56

Whereas, with the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, and the anthrax attacks on Congress immediately following, Americans became acutely aware of the vulnerability of the United States to attacks by terrorist organizations; and

Whereas, it is the duty of every level of government—federal, state, and local—to protect the citizens of this country from the consequences of all terrorist activities; and

Whereas, the resources necessary to provide this protection must be comprehensive so as to prevent, detect, or minimize any terrorist action and must be developed and be available for deployment as quickly as possible; and

Whereas, because of the state’s significant investment in a public hospital system, the close proximity of the Louisiana State University and Tulane University Medical Centers, and the University of Louisiana Medical Center, Louisiana is uniquely positioned to conduct and coordinate research, clinical trials and applications, education, and outreach activities aimed at developing diagnostic tools, prevention programs, and defenses that would mitigate and minimize the affect that biological and chemical agents would have on people, livestock, and the environment; and

Whereas, the utilization of the vast compendium of research, clinical applications, and education resources that already exist in Louisiana would facilitate the rapid development of vaccines, pharmaceuticals, and antidotes for the protection of humans, livestock, and the environment; and

Whereas, the United States Senate, to the Committee on Veterans’ Affairs, and the United States House of Representatives, to the House Committee on Veterans’ Affairs, have acknowledged its responsibility to provide medical care to veterans who served their country in time of war; and

Whereas, the United States Department of Veterans’ Affairs has been directed by the United States Congress to provide medical care to veterans who served their country in time of war; and

WHEREAS, the state of Louisiana has under taken efforts to become a national leader in the area of biomedical research: Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana hereby expresses full support to the efforts of the Louisiana Congressional Delegation for the creation of a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana; be it further

Resolved, That the Senate of the Legislature of Louisiana further, by utilizing the state’s vast array of public and private clinical, research, and educational facilities, such a facility is in the best interest of the citizens of this state and this nation; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress.

POM-333. A Resolution adopted by the House of the General Assembly of the State of North Carolina relative to a Federal/State cooperation to create a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana; be it further

Resolved, That the Senate of the Legislature of Louisiana further, by utilizing the state’s vast array of public and private clinical, research, and educational facilities, such a facility is in the best interest of the citizens of this state and this nation; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress.

POM-331. A Senate Concurrent Resolution adopted by the Legislation of the State of Louisiana voluntary citizens of Louisiana in public schools; to the Committee on the Judiciary.

RESOLUTION NO. 58

Whereas, one of the founding principles of the United States was the free exercise of religion and religious belief; and

Whereas, the First Amendment to the Constitution of the United States provides that Congress shall make no law establishing a religion, or prohibiting the free exercise of religion; and

Resolved, That the United States Senate, to the Committee on Veterans’ Affairs, and the United States Department of Veterans’ Affairs has been directed by the United States Congress to provide medical care to veterans who served their country in time of war; and

WHEREAS, the state of Louisiana has under taken efforts to become a national leader in the area of biomedical research: Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana hereby expresses full support to the efforts of the Louisiana Congressional Delegation for the creation of a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana; be it further

Resolved, That the Senate of the Legislature of Louisiana further, by utilizing the state’s vast array of public and private clinical, research, and educational facilities, such a facility is in the best interest of the citizens of this state and this nation; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress.

POM-331. A Senate Concurrent Resolution adopted by the Legislation of the State of Louisiana voluntary citizens of Louisiana in public schools; to the Committee on the Judiciary.

RESOLUTION NO. 58

Whereas, one of the founding principles of the United States was the free exercise of religion and religious belief; and

Whereas, the First Amendment to the Constitution of the United States provides that Congress shall make no law establishing a religion, or prohibiting the free exercise of religion; and

Resolved, That the United States Senate, to the Committee on Veterans’ Affairs, and the United States Department of Veterans’ Affairs has been directed by the United States Congress to provide medical care to veterans who served their country in time of war; and

WHEREAS, the state of Louisiana has under taken efforts to become a national leader in the area of biomedical research: Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana hereby expresses full support to the efforts of the Louisiana Congressional Delegation for the creation of a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana; be it further

Resolved, That the Senate of the Legislature of Louisiana further, by utilizing the state’s vast array of public and private clinical, research, and educational facilities, such a facility is in the best interest of the citizens of this state and this nation; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress.

POM-333. A Resolution adopted by the House of the General Assembly of the State of North Carolina relative to a Federal/State cooperation to create a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana; be it further
Whereas, a significant portion of these claims involve World War II and Korean War veterans, and despite determined efforts by the United States Department of Veterans Affairs to address this backlog, the backlog continues; and

Whereas, there exists a trained group of individuals in county veterans service officers located in 37 of the 50 states, representing 700 countries and a workforce of over 6,000 full-time local government employees; and

Whereas, these county veterans service officers are highly trained individuals who have continued to provide assistance to all veterans for over 50 years and are already familiar with the United States Department of Veterans Affairs claim policies and procedures; and

Whereas, for example, in North Carolina county voters in exchange for black graysist, North Carolina veterans obtain monetary benefits in excess of $122,000,000 by assisting these veterans in filling over 50,000 claims annually with the United States Department of Veterans Affairs; and

Whereas, this claims processing backlog needs addressed while World War II and Korean War veterans are still with us; and

Whereas, the United States Department of Veterans Affairs could enter into a partnership with state and local governments to utilize these highly trained county veterans service officers to eliminate the present claims processing backlog by expanding the county veterans service officers' roles; and

Whereas, these roles would be cost-effective and would reduce the need for a substantial increase in employees; and

Whereas, these county veterans service officers, as represented by the North Carolina Association of County Veterans Service Officers and the National Association of County Veterans Service Officers, have offered to assist the United States Department of Veterans Affairs to eliminate the veterans claims processing backlog in order that America's veterans can take advantage of the benefits that the United States has authorized for their faithful and loyal service to a grateful nation.

Section 2. The Principal Clerk shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, the Majority Leader of the Senate, and to each Member of the House of Representatives from North Carolina in the Congress of the United States.

Section 3. This resolution is effective upon adoption.

POM-334. A Resolution adopted by the Senate of the State of Alaska relative to the Pledge of Allegiance; to the Committee on the Judiciary.

SENATE RESOLVE No. 2

Whereas this country was founded on religious freedom by founders, many of whom were deeply religious; and

Whereas the First Amendment to the United States Constitution embodies principles intended to guarantee freedom of religion both through the free exercise of religion and by the government's establishing a religion; and

Whereas the Pledge of Allegiance was written by a group of federal employees, and was first published in the September 8, 1892, issue of Youth's Companion; and

Whereas, in 1989, the United States Congress added the words “under God” to the Pledge of Allegiance; and

Whereas, in 2002, the Senate of the United States concurred with Senatorench, in adding these words, said “These words will remind Americans that despite our great physical strength we must remain humble. They will help us to keep our hands and hearts the spiritual and moral principles which alone give dignity to man, and upon which our way of life is founded.”; and

Whereas, the Senate Legal Counsel, the Pledge of Allegiance has included references to the United States flag and the country; this country, which alone gives dignity to man, and upon which our way of life is founded.; and

Whereas, in 1984, the United States Congress believed it was acting constitutionally when it revised the Pledge of Allegiance; and

Whereas the Senate of the 107th United States Congress concurred in the Pledge of Allegiance is not an unconstitutional expression of patriotism; and

Whereas patriotic songs, engravings on United States legal tender, engravings on federal buildings, and the Preamble to the Constitution of the State of Alaska also contain general references to “God”; and

Whereas, in accordance with decisions of the United States Supreme Court, public school students cannot be forced to recite the Pledge of Allegiance without violating their First Amendment rights; and

Whereas, this resolution is intended that the United States Court of Appeals for the Ninth Circuit will rehear the case of Newdow v. U.S. Congress, en banc, and resolves to intervene in the case to defend the constitutionality of the Pledge of Allegiance; be it

Resolved, That the Alaska State Senate concurs with and supports the United States Senate in challenging the United States Court of Appeals for the Ninth Circuit in its decision of Newdow v. U.S. Congress, en banc.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 2596: A bill to direct the Secretary of the Army to convey a parcel of land to Chatt-ham County, Georgia.

H.R. 404: To authorize the Secretary of the Interior to provide assistance to the State of Maryland and the State of Louisianna for implementation of a program to eradicate or control nutria and restore marshland damaged by nutria.

H.R. 727: A bill to reauthorize the national dam safety program, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions:

Glen Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

*Barbara Gillister, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

*Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

*Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. DAYTON (for himself and Mr. SESSIONS):

S. 3007. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain overseas pay of members of the Armed Forces of the United States, and for other purposes; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. STEVENS):

S. 3008. A bill to amend the Higher Education Act of 1965 to expand the loan forgiveness and loan cancellation programs for teachers, to provide loan forgiveness and loan cancellation programs for nurses, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WELLSTONE (for himself, Mrs. CLINTON, Mr. KENNEDY, Ms. LANDRIEU, Mrs. CARNahan, Mr. SMITH of Oregon, Mr. BAYH, Mr. SARbanes, Mr. DASchle, Mr. ROCKefeller, Mr. TORricelli, Mr. Durbin, Mr. BINGaman, Mr. KERRY, Mr. DODD, Mr. REED, Ms. CAYT, Mrs. BOXer, Mrs. FEINstein, Mrs. BOXEN, Mr. LEVIN, Mr. CORZINE, Mr. REID, Mr. SCHUMER, Ms. STaenberg, Mr. LEAHY, and Mr. LIEberman):

S. 3009. A bill to provide economic security for America’s workers; read the first time.

By Mr. BAYH:

S. 310. A bill to provide information and advice to pension plan participants to assist them in making decisions regarding the investment of their pension plan assets, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 311. A bill to amend title 23, United States Code, to establish programs to encourage economic growth in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD:

S. 312. A bill to amend the Internal Revenue Code of 1986 to exclude from income and employment taxes and wage withholding the income and social security taxes imposed on alcohol fuels to the extent of the tax relief provided by the energy policy act of 2001, and for other purposes; to the Committee on Finance.

S. 320. A bill to amend title 23, United States Code, to establish programs to encourage economic growth in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KYL (for himself, Mr. McCaIN, Mr. DOMENici, and Mr. BINGaman):

S. 3013. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and modify the reinsurance of State and local funds expended for emergency health services furnished to undocumented aliens; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL:

S. 3014. A bill for the relief of Jesus Raul Apodaca-Madrid and certain of his family members; to the Committee on the Judiciary.

By Mr. DASchle (for himself and Mr. LOTTY):

S. Res. 36. A joint resolution to authorize the use of United States Armed Forces against Iraq; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BROWNBACK (for himself and Mr. NELson of Nebraska):

S. Con. Res. 148. A concurrent resolution recognizing the significance of bread in American history, culture, and daily diet; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

By Mr. CAMPBELL, the name of the Senator from Montana (Mr. BAUCUs) was added as a cosponsor of S. 2770, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas.

By Mr. BAUCUS, the name of the Senator from Virginia (Mr. WARNer) was added as a cosponsor of S. 2816, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

By Mr. FEINGold, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2847, a bill to assist in the conservation of cranes by supporting and providing through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes.

By Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEberman) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

By Mr. JeffFords, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2897, a bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

By Mr. Johnson, the name of the Senator from New Jersey (Mr. TORricelli) and the Senator from arkansas (Mrs. LINCoN) and the Senator from Missouri (Mrs. CARNahan) were added as cosponsors of S. 2906, a bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways.

By Mr. BINGaman, the names of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2996, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes.

By Mr. ALLEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2996, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes.

By Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. DelAHAN)

By Mr. HARKIN (for himself and Mr. STEVENS):

S. 3155. A bill to extend the attorney fee payment system for representation of claimants and to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes.

By Mr. TORricelli, the name of the Senator from New Jersey (Mr. TORricelli) and the Senator from Mississippi (Mr. LOTTY) 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 holding Syria accountable for its role in the Middle East, and for other purposes.

By Mr. LEAHY, the name of the Senator from Alaska (Mr. MURkowski) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

By Mr. REED, the name of the Senator from Maryland (Mr. SARBanES) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

By Mr. KENNEDY, the name of the Senator from Maryland (Mr. SARBanES) was added as a cosponsor of S. 2678, a bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

By Mr. REED, the name of the Senator from Maryland (Mr. SARBanES) was added as a cosponsor of S. 2691, a bill to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways.

By Mr. URSIN:

S. 2768. A bill to provide economic security for America’s workers; read the first time.

S. Res. 270. At the request of Mr. DODD, the name of the Senator from Montana (Mr. BAUCUs) was added as a cosponsor of S. 2770, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas.

S. Res. 270. At the request of Mr. BAUCUS, the name of the Senator from Virginia (Mr. WARNer) was added as a cosponsor of S. 2816, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

S. Res. 289. At the request of Mr. FEINGold, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2847, a bill to assist in the conservation of cranes by supporting and providing through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes.

S. Res. 289. At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEberman) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. Res. 289. At the request of Mr. JeffFords, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2897, a bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

S. Res. 290. At the request of Mr. Johnson, the name of the Senator from New Jersey (Mr. TORricelli) and the Senator from arkansas (Mrs. LINCoN) and the Senator from Missouri (Mrs. CARNahan) were added as cosponsors of S. 2906, a bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways.

S. Res. 290. At the request of Mr. BINGaman, the names of the Senator from arkansas (Mrs. LINCoN) and the Senator from Missouri (Mrs. CARNahan) were added as cosponsors of S. 2906, a bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways.
members to overcome the loss of their fallen heroes.

S. CON. RES. 143

At the request of Mr. INHOFE, the names of the Senator from Arkansas (Mr. HUTCHINSON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Connecticut (Mr. DONN), the Senator from Indiana (Mr. DAYTON) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. Con. Res. 143, A concurrent resolution designating October 6, 2002, through October 12, 2002, as “National 4-H Youth Development Program Week”.

S. CON. RES. 145

At the request of Mr. KENNEDY, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. Con. Res. 145, A concurrent resolution recognizing and commending Mary Baker Eddy’s achievements and the Mary Baker Eddy Library for the Betterment of Humanity.

AMENDMENT NO. 403

At the request of Mr. DURBIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of amendment No. 4653 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4653

At the request of Mr. ALLEN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 4731 intended to be 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. HARKIN (for himself and Mr. STEVENS):

S. 3008. A bill to amend the Higher Education Act of 1965 to expand the loan forgiveness and loan cancellation programs for teachers, to provide loan forgiveness and loan cancellation programs for nurses, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I, along with my good friend from Alaska, Senator STEVENS, am introducing legislation that will help bolster two critical components of Iowa’s and the Nation’s economic future: healthcare and education.

Across Iowa and America, we face a critical and worsening shortage of nurses and teachers. By 2010 there will be a shortage of 725,000 nurses. By 2020, that shortage will increase to 1.2 million as the baby boomers begin to retire and need more care.

It’s much the same time for teachers. In Iowa, a majority of our teachers will be eligible to retire in the next 10 years. And 17 percent of Iowa first year teachers leave the classroom after only one year. This is almost twice the national average. We’ll need more than 2 million teachers nationwide just to replace the teachers that retire or leave the profession.

Clearly, a shortage of nurses or teachers will have a profound impact on the quality of education for our children and the quality of health care for every Iowan. We have to do more to attract young people to these difficult yet rewarding careers.

One reason young people aren’t taking on teaching or nursing is because they’re buried in college loan debt. According to the “Borrowing”, a report by the United States Public Interest Research Group, 64 percent of students graduated in 1999–2000 with Federal education loan debt. Further, the average student loan debt has nearly doubled over the past eight years to $16,928. Young people simply can’t pursue careers that are critical to Iowa’s and America’s future because their college debt causes them to enter into unmanageable repayment plans.

Earlier this year, I spoke with college students from schools across central, southern, and eastern Iowa. Many of these students will walk away from college with a diploma in one hand and a $20,000 student loan bill in the other. When students loan debt keeps our kids from becoming Iowa’s next teachers and nurses there’s something very wrong with America’s priorities.

That’s why I, along with my good friend from Alaska, Senator STEVENS, am introducing a plan to offer up to $17,500 of loan forgiveness to students who go into teaching or nursing for at least 5 years. Under our plan, students would get needed relief from loan debt and Iowa and America would get its next generation of nurses and teachers. That’s a good investment in education, health care, and our nation’s future.

I think we’ve got a good chance of making this proposal a reality. President Bush has proposed a similar plan aimed just at teachers in a few subject areas. However, I am aware that school districts throughout the United States are faced with problems attracting and retaining teachers in more than just the areas of special education, math and science. Since the White House has embraced the general approach, I am hopeful they’ll also support our broader plan for teachers and nurses. It’s a common sense proposal that’s focused on Iowa and America’s future.

I ask unanimous consent that letters of support for our legislation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN NURSES ASSOCIATION, Washington, DC, August 30, 2002.

Hon. Tom Harkin, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: I write on behalf of the American Nurses Association (ANA) to express gratitude and support for your intent...
to introduce legislation to provide loan forgiveness and loan cancellation programs for registered nurses.

ANA is the only full-service association representing the nation’s registered nurses through its 54 constituent member nurse associations. The ANA represents registered nurses of all educational preparation in all practice settings.

ANA supports your legislation because it aims to address the impending nursing shortage. This shortage is projected to soon reach crisis proportions, just as the baby boom generation begins to place great demands on the health care system.

A reason for the emerging nurse shortage is a decreasing number of young people entering the nursing profession. As you already well be aware, enrollments in nursing programs have dropped by 17 percent since 1995. Current projections show that the number of nursing students will fall 20 percent below requirements by 2020. Your legislation will help reverse the trend and encourage entry into the profession.

As nurses are the largest single group of health care professionals in America, the nurse shortage threatens the very fabric of our health care delivery system. An adequate prepared and supported nursing workforce is essential for the health of our nation.

ANA thanks you for your strong support of nursing issues and for introducing this important legislation.

Sincerely,

ROSE GONZALEZ, Director, Government Affairs.

AMERICANS FOR NURSING SHORTAGE RELIEF, August 19, 2002.

Hon. Tom Harkin,
Hart Senate Office Building, U.S. Senate, Washington, DC.

Dear Senators Harkin and Stevens:

The undersigned members of the ANSIR Alliance (Americans for Nursing Shortage Relief) strongly support your draft bill to amend the Higher Education Act of 1965 and increase nursing education loan opportunities within the Delaware Education System. As delivered in the bill, this positive move to bring more individuals into the nursing profession and support the creation of nurse educators will be accomplished through loan cancellation and forgiveness after five years of service in a clinical setting or at an accredited school of nursing. We greatly appreciate your understanding of the need for multiple programs throughout the federal government to alleviate the critical nursing shortage that is facing us today and which will continue to do so for years from its growth.

A key issue in ensuring public access to high quality nursing services is the growing faculty shortage and implications for the preparation of new nursing professionals. The median age of nurse faculty is 52 years old, and the impending retirement of seasoned faculty over the next decade will significantly impact the ability of schools and universities to sustain quality nursing educational programs that prepare an adequate supply of nurses to meet the Nation’s needs.

The educational incentives described in the proposed legislation hold promise as effective tools to insure monies are available to train critically needed nurse faculty.

The ANSIR Alliance thanks you for your continued support and an innovative solution to help alleviate the nursing shortage in the United States. We look forward to working with you to ensure passage of this important piece of legislation.

Sincerely yours,

American Academy of Ambulatory Care Nursing
American Academy of Nurse Practitioners
American Association of Colleges of Nursing
American Association of Critical Care Nurses
American Association of Nurse Anesthetists
American College of Nurse-Midwives
American College of Nurse Practitioners
American Nephrology Nurses Association
American Organization of Nurse Executives
American Society of Pain Management Nurses
American Society of PeriAnesthesia Nurses
American Society of Plastic Surgical Nurses
Association of Faculties of Pediatric Nurse Practitioners
Association of periOperative Registered Nurses
Association of State and Territorial Directors of Nursing
Association of Women’s Health, Obstetric and Neonatal Nurses
Emergency Nurses Association
National Alaska Native American Indian Nurses Association
National Association of Clinical Nurse Specialists
National Association of Neonatal Nurses
National Association of Orthopaedic Nurses
National Association of Pediatric Nurse Practitioners
National Association of School Nurses
National Black Nurses Association, Inc.
National Conference of Gerontological Nurse Practitioners
National Council of State Boards of Nursing
National League for Nursing
National Nursing Centers Consortium
National Organization of Nurse Practitioner Faculties
National Student Nurses’ Association, Inc.
Nurses Organization of Veterans Affairs
Oncology Nursing Society
Society of Gastroenterology Nurses and Associates, Inc.
Society of Pediatric Nurses

AMERICAN COUNCIL ON EDUCATION, Office of the President, Washington, DC, September 25, 2002.

Re support of the Teacher and Nurse Support Act of 2002.

Hon. Tom Harkin,
Hart Senate Office Building, Washington, DC.

Dear Senator Harkin,

On behalf of the American Council on Education (ACE) and the organization listed below, I thank you for introducing legislation to expand and extend loan forgiveness and cancellation programs for teachers and nurses. We are grateful to you for working so hard to alleviate the financial burden of America’s students, particularly our teachers and nurses. The highly valued but underpaid professionals are educated and prepared in our institutions. We will work with you in building support for these good measures and we will wholeheartedly support your bill when it comes up for consideration.

Providing financial incentives to nursing and teaching professionals through loan forgiveness programs is one of the best ways to attract and retain talented individuals to pursue academic study and careers in these important fields.

As individuals retire and the vacancies for nurses and teachers grow, the United States will need to replace and supplement these essential vocations with qualified personnel. These types of programs and incentives are especially helpful for individuals who choose teaching or nursing in their time and energy to careers that are rarely financially lucrative.

Thank you again for your leadership on this important issue.

Sincerely,

DIANE SHUSTER, Director, Government Relations.

RANDALL MOODY, Manager of Federal Policy and Politics.

By Mr. WELLSTONE (for himself, Mrs. CLINTON, Mr. KENNEDY, Ms. LANDRIEU, Mrs. CARNABAH, Mr. SMITH of Oregon, Mr. BAYH, Mr. SARRANES, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. TORRICELLI, Mr.
The need to help struggling workers in New York and throughout the Nation, however, was not breaking through. On September 13, 2002, I made my case for the need to extend unemployment insurance through an op-ed in the New York Times, which I would like to submit for the RECORD today. In this article, I refer to Felix Batista, a
father of four who lost his job as a result of September 11 and has not been able to get back on his feet. Felix came to Washington to testify at a HELP Committee hearing on September 12, 2002, and told his story to all the members of the Committee. I was pleased to meet the tragic story of one of the other unemployed New Yorkers who came to town to ask that Congress extend unemployment benefits.

On September 15, 2002, I appeared on Meet the Press with Tim Russert and again made the dramatic rise in long-term unemployment and the need to extend benefits and help those who are suffering as a result of the economy. Last week, I delivered a floor statement on this bill to again reinforce the message that I have been trying to get out to all of my colleagues. And yesterday, I worked with Senator Kennedy to organize a press conference to draw attention to this issue. There, I introduced Vera Matty, a former executive assistant at BMO who lost her job last November as a result of the recession.

Today, 24 of my colleagues and I are introducing a bill to extend Unemployment Insurance for another 13 weeks and states like New York that are suffering from high unemployment. In addition, today the Environment and Public Works Committee approved my bill to extend Disaster Unemployment Assistance for another 13 weeks. And today the HELP Committee is taking action on this bill, S. 2715, and I hope that the Senate will move quickly to approve it.

New Yorkers are suffering. We have suffered a double blow as a result of September 11 and the recession. And September 20, 2002 there was an article in the New York Times stating that New York City’s poverty rate is growing for the first time in five years. This economy was in a recession on September 9. It was devastated on September 11 and the people who have exhausted their unemployment benefits need our help now.

Too many Americans are out of work and having a hard time providing for their families. Too many have lost their jobs and watched their pensions and retirement securities disappear because of the illegal and unethical and inexplicable behavior of corporate executives. And despite their steadfast efforts to find work and the overwhelming need for work, they remain out of work and struggle to make ends meet.

In New York, there are 135,000 New Yorkers who have exhausted their benefits. Across the country, the number of people who have been unemployed for 6 months or longer has almost doubled from 900,000 to 1.5 million in the last year. And that number is expected to increase to 2.2 million by December.

And what has Congress done to ease America’s timetabled burden during these uncertain times? We have extended benefits only once. Contrast that with the recession of the early 90’s when Congress extended temporary benefits five times. This year, even in the wake of massive terrorist attacks on our own soil, we have extended benefits only once, and once is not enough.

Congress must extend unemployment insurance and disaster unemployment assistance for an additional 13 weeks. With more people losing their benefits every day, these extensions have to be passed before Congress adjourns.

Extending unemployment insurance is not just the right thing to do; it is also the smart thing. According to a 1999 Department of Labor study, unemployment insurance stimulates the economy. Every dollar spent on unemployment insurance adds $2.5 to the Gross Domestic Product. Unemployment Insurance acts as a stimulus because it puts money into the hands of people who are likely to spend it immediately. They have to buy food. They have to pay rent. They have to pay for their medical care. So the money goes right into the economy, and it provides a stimulus.

Today, the outlook for job seekers is grim. When President Bush took office back in January of 2001, there was approximately one job seeker for every job. In just a little over a year, those numbers have changed to nearly 1 job opening for every 3 applicants. The number of people who cannot find jobs for six months or longer, has grown by almost 90 percent in the past year.

In fact, the share of the unemployed today who have been without work for more than 26 weeks exceeds that of the recessions of the early 90’s and the early 80’s. But only looking at the unemployment rate does not paint a complete picture of the economy. My constituents describe an endless job search—the hopeless feeling that comes from looking for a job for months and months without success.

Two years ago, America was on the right track when it came to the economy: 22 million new jobs, budget surpluses, and historic growth. For reasons that escape me, we threw all that good work away. Now we’re back into deficits. We’re not creating jobs. And we’re not taking care of the unemployed.

It’s time for us to extend benefits just as we did during the recession in the early 90’s, and stimulate the economy. People are hurting and they are still hangin’ on for benefits and they need Congress to act now. We must not adjourn until we pass these needed extensions of unemployment insurance.

I ask unanimous consent that the New York Times article of September 20, 2002 be printed in the RECORD. There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 20, 2002]

HELPING THE JOBLESS

(By Hillary Rodham Clinton)

For 23 years, I worked under the elevator up 106 floors to work as a member of the wait staff at the Windows on the World res-
This bill is only a beginning in our Nation’s efforts to curb roadway accidents and deaths, in a way that best addresses the needs of our States. A large cause of accidents is the poor quality of signs in and around crosswalks, school and bicycle crossings. Highway signs marking pedestrian, bicycle, and school zone crossings help to alert motorists to the increased risks associated with these locations. The Secretary of Transportation is directed to set aside $25 million each fiscal year from the Surface Transportation Program to finance these safety improvement grants. The funds may be obligated for eligible projects located on any Federal-aid highways.

I’ve been hearing from County Commissioners from Montana as well as other States, about how much they need direct funding for local roads. These locations are hard pressed for funds and many of these roads are unsafe. This bill would establish a pilot program, at $200 million annually from fiscal year 2004-2009, to address safety on rural local roads. Funds could be used only on local roads and rural minor collectors, roads that are not Federal-aid highways.

The program does not affect distribution of funds among States, as funds will be distributed to each of the 50 States and their relative formula share under 23 U.S.C. 105. Funds could be used only for projects or activities that have a safety benefit. By January 1, 2009 the Secretary of Transportation is to report on progress under the provision and whether any modifications are recommended. This bill takes a different approach to the issue of aggressive driving. Rather than sanctioning drivers who display aggressive behavior, this bill seeks to lessen that negative behavior by removing some of the frustration that causes that behavior.

This section applies to all Federal interstates. It names the left lane as the "National Passing Lane." It requires all vehicles to use the left lane for passing only. It further requires that all drivers allow other vehicles to pass them in the left lane. I believe that one of the big frustrations of drivers is being held up by someone going slow in the left lane. It contributes to driver aggression and to congestion. The MEGA Safe Act seeks to alleviate that.

An amount of no less than $1 million will be given to each State each year of the bill, 6 years, to educate the driving public about this new law and the proper behavior. Each State will decide how to best enforce this law, for example, enforcement of ticketable offenses such as if a driver does not allow another to pass or the driver is holding up the left lane with a line of cars behind him.

Additionally, the bill funds a study to make recommendations on instituting measures that will help the federal government and states teach motorists and truck drivers how to effectively share the road with each other. Recently the American Automobile Association AAA published a study that shows that the majority of highway crashes that involved trucks are caused by the car or cars involved. The MEGA Safe Act would give $1 million to the American Trucking Associations, ATA, and report making recommendations on how the Federal and State governments can better teach car drivers and more carriers how to share the road. It requires a preliminary report in a year and the final report a year later. Finally, the MEGA Safe Act would address Work Zone Safety by ensuring that, for each project that uses Federal funds, a trained and certified person would be given the responsibility for ensuring that the safety plan is effectively administered. This would help reduce the number of deaths occurring in work zone safety areas.

The MEGA Safe Act is by no means a comprehensive safety proposal, but I believe that it are a good foundation for our safety policies as we embark on the Reauthorization of TEA 21.

By Mr. DODD:
S. 3012. A bill to amend the Internal Revenue Code of 1986 to exclude from income and employment taxes and wage withholding property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders; to the Committee on Finance.

Mr. DODD. Mr. President, I am pleased to rise today with my colleague Senator LIEBERMAN to introduce legislation that would amend the Internal Revenue Code to make property tax rebates, provided by local governments to volunteer firefighters and emergency medical responders, from the definition of income and wages.

This ruling would pose real hardship on firefighters and the communities where they live and work, in Connecticut and in many other States, as well. While State and local governments are working to increase incentives to volunteer, this ruling would undermine those efforts. Some may argue that volunteering for the community should be without any compensation, including abatements. However, the reality is that when both heads of household hold full-time employment, it is often too difficult for them to take time away from their families without some form of compensation. A $1,000 property tax break is not a large request for the great service these men and women provide to our communities. These men and women risk their lives for others. The least we can do is allow states and towns to offer them modest incentives to serve. For some counting this abatement as income may put them in a higher tax bracket, therefore forcing them to pay substantially more in taxes. Also, because of the extra paper work required and costs due to the IRS decision, some municipalities are having difficulty implementing abatement programs. For many towns and municipalities it would be entirely too expensive to have to both pay FICA taxes.

Many States and localities lack adequate resources to recruit these vital public servants and therefore to fully respond to the full range of possible threats this country faces. Many small towns cannot afford full-time paid firefighters, therefore a majority of municipalities and counties throughout the country depend on volunteer firefighters and volunteer emergency service workers to cover their front lines. Every day, volunteers throughout the country make a commitment, on top of their work schedules, to put their lives on the line for their communities. Volunteer firefighters comprise 75 percent of firefighters in our country. Unfortunately, statistics show that the number of volunteer firefighters and emergency responders have been declining over the years at an alarming rate. The number of volunteer firefighters around the country has declined by 5 to 10 percent since 1983, while the number of emergency calls made has sharply increased.

Many local governments recruit and retain volunteer firefighters and emergency service workers by offering volunteer property tax rebates and other benefits, to their volunteer firefighters and emergency medical responders. For example, Connecticut enacted a law in 1999 allowing municipalities to offer abatements of up to $1,000 per year on local taxes to firefighters, emergency medical and technical personnel, paramedics or ambulance drivers. This abatement has helped local fire department in their volunteer recruitment efforts throughout the state.

Despite these successful recruitment efforts, the IRS recently ruled that property tax abatements to volunteers should be treated as wages and income. This ruling would pose real hardship to volunteers and the communities where they live and work, in Connecticut and in many other States, as well. While State and local governments are working to increase incentives to volunteer, this ruling would undermine those efforts. Some may argue that volunteering for the community should be without any compensation, including abatements. However, the reality is that when both heads of household hold full-time employment, it is often too difficult for them to take time away from their families without some form of compensation. A $1,000 property tax break is not a large request for the great service these men and women provide to our communities. These men and women risk their lives for others. The least we can do is allow states and towns to offer them modest incentives to serve. For some counting this abatement as income may put them in a higher tax bracket, therefore forcing them to pay substantially more in taxes. Also, because of the extra paper work required and costs due to the IRS decision, some municipalities are having difficulty implementing abatement programs. For many towns and municipalities it would be entirely too expensive to have to both pay FICA taxes,
and lose property tax revenues. Municipalities across the nation have enough trouble recruiting volunteer firefighters and emergency medical personnel without also having to face obstacles from the IRS.

This ruling undermines the good intentions of many localities. If our municipalities are willing to forgo their local tax revenues in order to ensure they have enough volunteer firefighters and emergency service providers to protect their communities—and if members of the community are doing their part by volunteering, then we, the Federal government, should do our part and support local efforts to ensure that all our communities have adequate protection.

I hope that my colleagues will join me in supporting this legislation so that we can ensure that state and local governments have the flexibility to design and implement recruiting and retention programs that benefit not only the firefighters and emergency medical providers, but all the communities they protect.

By Mr. KYL (for himself, Mr. MCCAIN, Mr. DOMENICI, and Mr. NAGAMACHI).

S. 3013. A bill to amended the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for undocumented aliens; to the Committee on Health, Education, Labor, and Pensions.

Mr. MCCAIN. Mr. President, I am pleased to once again join my good friend from Arizona, Senator KYL, in introducing a bill to address a critical issue affecting our State, and other border States. Today we are introducing the Local Emergency Health Services Reimbursement Act of 2002 in order to provide appropriate Federal reimbursement to States and localities whose budgets are disproportionately affected by the emergency health costs associated with illegal immigration.

Arizona and other border States now face a medical and financial crisis. A report released today by the U.S. Mexico Border Counties Coalition found that our Nation’s border hospitals spent close to $190 million in 2000 to provide health care to illegal immigrants—$31 million of which was spent by hospitals in Arizona alone. Clearly, the staggering cost of providing medical care to illegal immigrants further burdens an already challenged medical system.

The Federal Government maintains the sole authority to control immigration in this country. Despite that fact, the Federal Government often fails to take financial responsibility for the costs associated with immigration. Much of the financial burden has shifted to State and local governments.

Compounding the problem, Federal law requires hospital emergency rooms to accept and treat all patients in need of medical care, regardless of immigration status. Unfortunately, this mandate does not ensure that these hospitals receive adequate compensation for the care they provide. Recently, this growing problem in the Southwest has been exacerbated by the increasingly desperate measures taken by undocumented aliens to cross our border with Mexico.

The Local Emergency Health Services Reimbursement Act of 2002 would modify and extend federal funding to the States, local governments, and health care providers for costs that arise from the uncompensated treatment of illegal immigrants. Such funding previously flowed to all 50 States, the District of Columbia, and several U.S. territories. In fiscal year 2000 alone, approximately 360 local jurisdictions across the United States applied for these Federal monies. However, these funds expired in 2001, and States and local governments are now suffering as a result.

I have worked to bolster enforcement against illegal immigration along our Southwest border, and I will continue to do so. However, I believe that States and local communities should not be left to foot the bill for Federal responsibilities. Although our bill gives special consideration to States with unusually high concentrations of illegal aliens and States with high concentrations of apprehended undocumented aliens, it would benefit communities across the Nation. As many of my colleagues know, illegal immigrants who successfully transit our Southwest border rapidly disperse throughout the United States. Although this situation is most critical in our border regions, if left unaddressed, it will surely become a national emergency. I hope the Senate will act expeditiously on this important legislation to alleviate those pressures by compensating State and local governments and health care providers for the costs of caring for the undocumented aliens.

Mr. KYL. 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. 3013

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Local Emergency Health Services Reimbursement Act of 2002”.

SEC. 2. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

As amended by subsection (f) of section 4723 of the Balanced Budget Act of 1997 (8 U.S.C. 1611 note) is amended to read as follows:

SEC. 4723. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT. — There is appropriated, out of any funds in the Treasury not otherwise appropriated, $200,000,000 for each of fiscal years 2003 through 2007, for the purpose of making allotments under this section to States described in paragraph (1) or (2) of subsection (b).

(b) STATE ALLOTMENTS. —

(1) BASED ON HIGHEST NUMBER OF UNDOCUMENTED ALIENS.—

(i) DETERMINATION OF ALLOTMENTS.—

(ii) DETERMINATION OF ALLOTMENTS. —

(iii) AVAILABILITY OF FUNDS.—

(B) DATA. —For purposes of subparagraph (A), the number of undocumented aliens apprehended under this paragraph for a fiscal year that is not under subsection (c) of section 4723 of the Immigration and Nationality Act (title 8, United States Code) is the total number of aliens apprehended under subsection (a)(1) of section 235(a) of the Immigration and Nationality Act (title 8, United States Code) during the fiscal year.

(C) DATA. —For purposes of this paragraph, the highest number of undocumented alien apprehensions for a fiscal year shall be based on the most recent quarterly apprehension rates for undocumented aliens in such States, as reported by the Immigration and Naturalization Service.

(D) AVAILABILITY OF FUNDS. —The amount of an allotment provided to a State under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

(G) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State that is described in both of paragraphs (1) and (2) from receiving an allotment under both such paragraphs for a fiscal year.

(2) BASED ON NUMBER OF UNDOCUMENTED ALIEN APPREHENSION STATES.—

(A) IN GENERAL. —Out of the amount appropriated under subsection (b), the Secretary shall use $314,000,000 of such amount to compute an allotment for each fiscal year for each of the 17 States with the highest number of undocumented aliens.

(B) FORMULA.—The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under this paragraph for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year.

(C) DATA. —For purposes of this paragraph, the highest number of undocumented alien apprehensions for a fiscal year shall be based on the most recent quarterly apprehension rates for undocumented aliens in such States, as reported by the Immigration and Naturalization Service.
whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act) that provide uncompensated emergency health services furnished to undocumented aliens during that fiscal year, such amounts (subject to the total amount available from such allotments to the appropriate State, local government, hospitals, or providers demonstrated were incurred for the provision of such services during that fiscal year).''

(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

(4) STATE.—The term ‘State’ means the 50 States and the District of Columbia.

(e) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts provided under this section.

By Mr. CAMPBELL: S. 3014. A bill for the relief of Jesus Raul Apodaca-Madrid and certain of his family members; to the Committee on the Judiciary.

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

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

S. 3014

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Jesus Raul Apodaca-Madrid and the persons named in section 2 of this bill, and all other members of his family, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Jesus Raul Apodaca-Madrid and the persons named in section 1, the Secretary of State shall instruct the appropriate number during the current fiscal year to the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

SEC. 3. ADDITIONAL BENEFICIARIES FOR RELIEF.

The family members of Jesus Raul Apodaca-Madrid named in this section are the following: Adan Apodaca-Bejarano, Maria de Jesus Madrid-Tarango, Francisco Javier Apodaca-Madrid, Alma Delia Apodaca-Madrid, Maria Isabel Apodaca-Madrid, Laura Apodaca-Madrid, and Luis Bernardo Chavez-Apodaca.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 148—RECOGNIZING THE SIGNIFICANCE OF BREAD IN AMERICAN HISTORY, CULTURE AND DAILY DIET

Mr. BROWNBACK (for himself and Mr. NELSON of Nebraska) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 148

Whereas bread is a gift of friendship in the United States;

Whereas bread is used as a symbol of unity for families and friends;

Whereas the expression ‘breaking bread together’ means sharing friendship, peace, and goodwill, and the actual breaking of bread together can help restore a sense of normalcy and encourage a sense of community;

Whereas bread, the staff of life, not only nourishes the body but symbolizes nourishment for the human spirit;

Whereas bread is used in many cultures to commemorate milestones such as births, weddings, and deaths;

Whereas bread is the most consumed grain foods, is the Department of Agriculture as part of the most important food group, and plays a vital role in American diets;

Whereas Americans consume an average of 60 pounds of bread annually;

Whereas bread has been a staple of American diets for hundreds of years;

Whereas Americans are demonstrating a new interest in artisan and home-style types of breads, increasingly found in cafes, bakeries, restaurants, and homes across the country;

Whereas bread sustained the Pilgrims during their long ocean voyage to America and was used to celebrate their first harvest in the American wilderness; and

Whereas bread remains an important part of the family meal when Americans celebrate Thanksgiving, and the designation of November 2002 as National Bread Month would recognize the significance of bread in American history, culture, and daily diet;

Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should issue a proclamation—

(1) designating November 2002 as National Bread Month in recognition of the significance of bread in American history, culture, and daily diet; and

(2) calling on the people of the United States to observe such month with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4753. 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.

SA 4754. Mr. JEFFORDS (for himself, Mr. Surratt of Virginia, Mr. Snowe of Maine, and Mr. Blumenthal) 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 4755. 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 4756. 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 4757. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4736 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4758. Mr. HATCH 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 4759. Mr. HATCH 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 4760. Mr. HATCH 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 4761. Mr. HATCH 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 4762. Mr. HATCH 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 4763. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Grassm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4764. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Grassm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4765. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Grassm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4766. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Grassm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4767. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Grassm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4768. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Grassm (for himself, Mr. Miller, Mr. McConnell,
Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4769. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4770. 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 4771. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4772. Mr. DURBIN 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 4773. Mr. DURBIN 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 4774. Mr. DURBIN 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 4775. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4776. Mr. DURBIN (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4777. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4778. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4779. Mr. STEVENS (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4780. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4781. Mr. AKAKA (for himself, Mr. GRASSLEY, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4782. Mr. AKAKA (for himself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4783. Mrs. CLINTON (for herself, Mr. INHOFE, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4784. Mrs. CLINTON (for herself, and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4785. Mrs. CLINTON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4786. Mrs. CLINTON (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4787. Mr. KENNEDY submitted an amendment in the nature of a motion to accept Mr. STEVENS's amendment in the nature of a motion to accept an amendment to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4788. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment in the nature of a motion to accept an amendment to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.
SA 4799. Mr. FEINGOLD (for himself and Mr. KENNECY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4800. Mr. FEINGOLD (for himself and Mr. KENNECY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4801. Mr. FEINGOLD (for himself and Mr. KENNECY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4802. Mr. FEINGOLD (for himself and Mr. KENNECY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4803. Mr. FEINGOLD (for himself and Mr. KENNECY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4804. Mr. FEINGOLD (for himself and Mr. KENNECY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4805. Mr. FEINGOLD (for himself and Mr. KENNECY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4806. Mr. FEINGOLD (for himself and Mr. KENNECY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4807. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4808. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.
SA 4829. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THURMOND, Mr. SMITH, Mr. REID, Mr. BUNNING, and Mr. HUTCHINSON) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4830. 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 4831. 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 4832. Mr. JEFFORDS (for himself, Mr. SMITH, of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4741 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4833. 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 4834. 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 4835. Mr. DEWINE (for himself, Mr. BINGMAN, Mr. DOMENICI, Mr. THURMOND, Ms. CANTWELL, Mr. HELMS, Mr. ALLARD, Mr. LIEBERMAN, Mr. CARPER, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 5005, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table.

SA 4836. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. CARPER, and 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.

SA 4837. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 2237, to amend title 38, United States Code, to provide for an increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans, and for other purposes.

SA 4838. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 2237, to amend title 38, United States Code, to modify and improve authorities relating to compensation, education benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.

TEXT OF AMENDMENTS

SA 4753. 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:

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 responder personnel costs, including overtime costs.

SEC. 199A. SHORTEST 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. 5122(2)) is amended by inserting “incident of terrorism” in subsection (b), after “‘terrorist act’.”

SEC. 199D. 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 services, 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 such 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

(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response; and

(3) establish standards for a national, interoperable emergency communications and warning system;

(4) 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

(5) develop and implement training programs for first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.
necessary to respond to incidents of ter-
rorism, including incidents involving weap-
on of mass destruction;
(B) to train first responders, consistent with guidelines and standards developed by the Direct-
or; and
(C) in consultation with the Director, to de-
velop, construct, or upgrade emergency operating centers;
(E) to provide systems and equipment to meet response needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;
(G) to conduct exercises; and
(H) to carry out such other related activi-
ties as approved by the Director; and
(2) shall not be used to provide compensa-
tion to first responders (including payment for overtime).
(d) ALLOCATION OF FUNDS.—For each fis-
cal year, in providing assistance under sub-
section (b), the Director shall make avail-
able—
(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 spec-
ified 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, in-
cluding—
(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) APPROACH TO LOCAL GOVERN-
MENTS AND LOCAL ENTITIES.—
(1) IN GENERAL.—For each fiscal year, not less than 75 percent of the assistance pro-
vided under this section shall be provided to local governments and local entities within the State.
(2) ALLOCATION OF FUNDS.—Under para-
graph (1), the Director 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).
(f) ADMINISTRATIVE EXPENSES.—
(1) DIRECTOR.—For each fiscal year, the Director may use funds available in admin-
istering the program more than the less-
er 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 (d)(2)(E) may be used to pay salaries and other administrative expenses incurred in admin-
istering the program.
(g) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance to a State under section 199E(a) if the State agrees to—
(I) maintain, and to ensure that each local gov-
ernment 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 each of fiscal years 2003 through 2006, not more than 10 percent of the average level of those expenditures by the State or local government, respectively, for the 2 fis-
cal 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 Direc-
or, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of ter-
orism, including incidents involving weap-
on of mass destruction; and
(B) submit a report on the results of the exercise to—
(i) the Committee on Environment and Public Works; and
(ii) the Committee on Appropriations of the Senate;
and
(ii) the Committee on Appropriations; and
(iii) the Committee on Appropriations of the House of Representatives.
(i) COORDINATION.—
(1) WITH FEDERAL AGENCIES.—The Direc-
tor shall, as necessary, coordinate the provi-
sion of assistance under this section with ac-
tivities carried out by—
(A) the Administrator of the United States Fire Administration in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (35 U.S.C. 1904); and
(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Floyd D. Spence National De-
(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Di-
rector and the States shall, as appropriate, coordinate with—
(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Edu-
cation Assistance Act (25 U.S.C. 450b) and other tribal organizations; and
(B) Native villages (as defined in section 3 of the American Indian Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organiza-
tions.
(b) COST SHARING FOR EMERGENCY OPER-
ATING COORDINATION.—For fiscal years 2003 and 2004, the Robert T. Staff-
ford Disaster Relief and Emergency As-
sistance 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. Staff-
ford Disaster Relief and Emergency Assist-
ance Act (42 U.S.C. 5196c) is amended by section 199E(a)(3) 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 RESPONDERS.—The term “first re-
spenders” has the meaning given the term in section 199E(k).
(2) HARMFUL SUBSTANCE.—The term “harmful substance” means a substance that the President determines may be harmful to human health.
(b) PROGRAM.—The term ‘program’ means a program described in subsection (b)(1).
(1) IN GENERAL.—If the President deter-
mines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major dis-
aster area under this Act, the President shall carry a program for the area for the protection, assessment, monitoring, and study of the health and safety of first re-
sponders.
(2) ACTIVITIES.—A program shall include—
(A) collection and analysis of environ-
mental 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 expos-
ure 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 subpara-
graphs (D) and (E) in determining eligibility for health coverage and identifying appro-
riate health services.
(3) PARTICIPATION IN REGISTRIES AND STUD-
IES.—
(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 Presi-
dent shall take appropriate measures to pro-
tect the privacy of any participant in a reg-
istry or study described in subparagraph (A).
(c) COOPERATIVE AGREEMENTS.—The Presi-
dent may carry out a program through a co-
operative agreement with a medical or aca-
demic institution, or a consortium of such institutions, that is—
(1) located in close proximity to the major disaster area with respect to which the program is carried out; and
(2) experienced in the area of environ-
mental occupational health and safety, in-
cluding experience in—
(i) conducting long-term epidemiological studies;
(ii) conducting long-term mental health studies; and
(iii) establishing and maintaining envi-
ronmental exposure or disease registries.
(d) REPORTS AND RESPONSES TO STUDIES.—
(1) REPORTS.—Not later than 1 year after the date of completion of a study under sub-
section (b)(2)(E), the President, or the med-
ic or academic institution or consortium of such institutions that entered into the coop-
orative 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 status of

"(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. 5179 et seq.) (as amended by section 530(d) and 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 make discretionary grants to any urban search and rescue task force 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.—There are authorized to be appropriated to carry out this title:

(1) Urban Search and Rescue Task Forces.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out section 630—

(A1) $3,340,000,000 for fiscal year 2003; and

(B) $3,458,000,000 for each of fiscal years 2004 through 2006.

(B) URBAN SEARCH AND RESCUE TASK FORCES.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

(1) $150,000,000 for fiscal year 2003; and

(2) $25,000,000 for each of fiscal years 2004 through 2006.

(C) AVAILABLE OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.

SA 4755. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4741 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 be lie on the table; as follows:

On page 103, line 17, strike ‘‘Urban Search and Rescue Task Force’’ and insert ‘‘and the Director of the Federal Emergency Management Agency’’ after ‘‘Defense’’.

On page 103, line 18, strike ‘‘13’’ and insert ‘‘14’’.

On page 103, line 19, strike ‘‘14’’ and insert ‘‘15’’.

On page 103, line 20, strike ‘‘15’’ and insert ‘‘16’’.

On page 103, line 21, strike ‘‘16’’ and insert ‘‘17’’.

On page 103, line 22, strike ‘‘17’’ and insert ‘‘18’’.

On page 103, line 23, strike ‘‘18’’ and insert ‘‘19’’.

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) CONFIRMING 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 ‘‘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 23, and page 187, line 1, strike ‘‘emergency preparation and response’’.
Under date of enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report assessing the state of identity theft, including an assessment of the resources and requirements of executive agencies relating to border security.

SA 4757. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4438 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to be lie on the table; as follows:

On page 156, between lines 11 and 12, insert the following:

"Subtitle H—Identity Theft"

SEC. 771. SHORT TITLE.
This subtitle may be cited as the "Identity Theft Victim Assistance Act of 2002".

SEC. 772. TREATMENT OF IDENTITY THEFT MITIGATION.
(a) IN GENERAL.—Chapter 47 title 18, United States Code, is amended by adding after section 1028 the following:

"§ 1028A. Treatment of identity theft mitigation

"(a) DEFINITIONS.—As used in this section—

(1) "the term ‘business entity’ means any corporation, or any business entity, trust, partnership, sole proprietorship, or any unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 105 of the Truth in Lending Act (15 U.S.C. 1602)), telecommunication services, and other service providers; and

(2) "the term ‘consumer’ means an individual;

(3) "the term ‘financial information’ means information identifiable as relating to an individual, that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

(A) account numbers and balances;

(B) information for a business reason, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

(C) codes, passwords, social security numbers, identification numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

(4) "the term ‘financial information repository’ means any person engaged in the business of providing services to consumers who have a credit, trust, stock, or other financial services account or relationship with that person;

(5) "the term ‘identity theft’ means an actual or potential violation of section 1028 or any other similar provision of Federal or State law;

(6) "the term ‘means of identification’ has the same meaning given in the term in section 1028; and

(7) "the term ‘victim’ means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

(b) INFORMATION AVAILABLE TO VICTIMS.—

(1) IN GENERAL.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a commercial transaction, provided credit, or provided goods, services, or financial services, accepted payment, or otherwise done business with a person that has made unauthorized use of the means of identification of the victim, shall not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), and in compliance with applicable laws, without charge, a copy of all application and business transaction information related to the transaction being alleged as an identity theft to—

(A) the victim;

(B) any Federal, State, or local government law enforcement agency or officer specified by the victim; or

(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

(2) RULE OF CONSTRUCTION.—

(3) VERIFICATION OF IDENTITY AND CLAIM.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business entity—

(1) as proof of positive identification, at the election of the business entity—

(A) a presentation of a government-issued identification card;

(B) if providing proof by mail, a copy of a government-issued identification card;

(C) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

(D) personally identifying information that the business entity typically requests from new applicants or for new transactions at the time of the victim’s request for information; and

(2) as proof of a claim of identity theft, at the election of the business entity—

(1) a copy of the report evidencing the claim of the victim of identity theft;

(B) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

(C) any affidavit of fact that is acceptable to the business entity for that purpose.

(2) VERIFICATION STANDARD.—Prior to releasing records pursuant to subsection (b), a business entity shall take reasonable steps to verify the identity of the victim requesting such records.

(3) LIMITATION ON LIABILITY.—No business entity may be held liable for a disclosure, made in good faith in a reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other business entities, creditors, financial institutions, or any person alleging to be a victim, if—

(i) the business entity complies with subsection (c); and

(ii) the disclosure was made—

(A) for the purpose of detection, investigation, or prosecution of identity theft; or

(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

(4) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

(i) this section does not require disclosure of the information;

(ii) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information; or

(iii) the information requested is Internet navigational data or similar information about a person’s visit to a website or online service.

(4) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this section creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable laws.

(5) ENFORCEMENT.—

(6) CIVIL ACTIONS.—

(7) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is being, adversely affected by a violation of this section by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(i) enjoin that practice;

(ii) obtain damages;

(iii) obtain such other equitable relief as the court may consider to be appropriate.

(B) NOTICE.—Before bringing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(C) PREFERENCE FOR CIVIL ACTIONS.—In any civil action brought to enforce this section, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for the defendant to file an affidavit or answer stating that—

(i) the business entity has made a reasonably diligent search of its available business records and

(ii) the records requested under this section do not exist or are not available.

(D) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to provide a private right of action or claim for relief.

(2) INTERVENTION.—

(A) IN GENERAL.—On receiving notice of an action under paragraph (1), the Attorney General of the United States shall have the right to intervene in that action.

(B) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under this subsection, the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

(3) SERVICE OF PROCESS.—Upon request of the Attorney General of the United States, the attorney general of a State that has filed an action under this subsection pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Government with—

(i) a copy of the complaint; and

(ii) written disclosure of substantially all material evidence and information in the
(4) AUTHORITY TO DECLARE OR RESCIND.—

"(A) IN GENERAL.—A consumer reporting agency may at any time decline to block, or may rescind any block, of consumer information if—

"(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency finds that—

"(I) the block was issued, or the request for a block was made, based on a misrepresentation of fact by the consumer relevant to the request to block;

"(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions;

"(iii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error; or

"(iii) the consumer reporting agency determines—

"(I) that the consumer’s dispute is frivolous or irrelevant in accordance with subsection (a)(3); or

"(II) after completion of its investigation under subsection (a)(1), that the information disputed by the consumer is accurate, complete, and verifiable in accordance with subsection (a)(2).

"(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified in writing, by electronic means, or in any other manner permitted, by the consumer reporting agency, not later than 12 days after the date of such decision.

"(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

"(D) EXCEPTIONS.—

"(A) NEGATIVE INFORMATION DATA.—A consumer reporting agency shall not be required to comply with this subsection when such agency is issuing information for authorization, for the purpose of approving or procuring a consumer report, credit, supreme court order, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

"(i) dishonored checks;

"(ii) accounts closed for cause;

"(iii) substantial overdrafts;

"(iv) abuse of automated teller machines; or

"(v) other information which indicates a risk of fraud occurring.

"(B) RESSELLERS.—The provisions of this subsection do not apply to a consumer reporting agency if the consumer reporting agency—

"(i) does not maintain a file on the consumer from which consumer reports are produced;

"(ii) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

"(iii) informs the consumer, by any means, that the consumer may request that the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

"(B) FAKE CLAIMS.—Section 1028c of title 18, United States Code, is amended by adding at the end the following:

"(1) Any person who knowingly makes false claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681e(o)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.

"(C) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate district court of the United States without regard to the amount in controversy, in any other court of competent jurisdiction no later than 2 years from the date of the defendant’s violation of any requirement under this title.

"(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

"(c) ENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 4 years from the date of the defendant’s violation if—

"(i) the plaintiff is the victim of an identity theft; or

"(ii) the plaintiff—

"(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

"(B) has not materially and willfully misrepresented such a claim.

SEC. 774. COORDINATING COMMITTEE STUDY OF COOPERATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

"(1) in subsection (b), by striking “and the Commissioner of Immigration and Naturalization Service” and inserting “and the Attorney General, the Postmaster General, and the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of Immigration and Naturalization Service.”; and

"(2) in subsection (c), by striking ‘2 years after the effective date of this Act.’ and inserting ‘2 years after the effective date of the Federal Trade Commission’s report on December 28, 2005.’

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

"(1) by redesignating subsection (d) as subsection (e); and

"(2) by inserting after subsection (c) the following:

"(f) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State and Federal general, and State and local business entities (as that term is defined in section 773 of the Identity Theft Victims Assistance Act of 2002), including telecommunication and utility companies, and organizations representing consumers.

(c) REPORT DISTRIBUTION AND CONTENTS.—

"(1) The General Accounting Office shall transmit a copy of the report required under section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) to—

"(I) in General.—The Attorney General and the Secretary of the Treasury, at the end
SA 4759. Mr. HATCH 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 103, between lines 12 and 13, insert the following:

"(1) University-Based Centers for Technology Research and Development. — (A) The Secretary, acting through the Under Secretary for Science and Technology, shall establish, within 1 year of the date of enactment of this Act, a university-based center or centers for homeland security. (B) The Secretary shall establish the criteria, and make recommendations to the Committee on Homeland Security, the Congress, and the National Science Foundation, regarding the establishment of centers for homeland security, including— (i) participation in standards development organizations within and outside of the Federal Government; (ii) coordination of all efforts within the Department to ensure expeditious implementation and consistency of standards within and outside of the Department; and (iii) promulgate regulations and procedures necessary to accomplish the duties of the OTTS.

(2) Selection criteria. — The Secretary, acting through the Under Secretary for Science and Technology, shall establish, within 1 year of the date of enactment of this Act, a university-based center or centers for homeland security. The Secretary shall consider each application for the establishment of a center for homeland security, and make recommendations to the Committee on Homeland Security, the Congress, and the National Science Foundation, regarding the establishment of centers for homeland security, including— (A) ensure that colleges, universities, private research companies, and consortia thereof from as many areas of the United States as practicable participate; and (B) distribute funds through grants, cooperative agreements, and contracts consistent with the policies and methods in this Act.

(3) Purpose. — The purpose of the center or centers established pursuant to paragraph (2) shall be to create a coordinated, university-based system to enhance the Nation's homeland security.

(4) Selection criteria. — In selecting colleges or universities as centers for homeland security, the Secretary shall consider each institution— (A) demonstrated expertise in the training of first responders; (B) demonstrated expertise in responding to incidents involving weapons of mass destruction and biological warfare; (C) demonstrated expertise in emergency medical services; (D) demonstrated expertise in chemical, biological, radiological, and nuclear countermeasures; (E) strong affiliations with animal and plant diagnostic laboratories; (F) demonstrated expertise in food safety; (G) affiliation with Department of Agriculture laboratories or training centers; (H) demonstrated expertise in water and wastewater operations; (I) demonstrated expertise in port and waterway security; (J) demonstrated expertise in multi-modal transportation; (K) nationally recognized programs in information security; (L) demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.

(5) Discretion of the Secretary. — The Secretary shall have the discretion to— (A) determine the number of centers for homeland security that will be established; and (B) consider additional criteria as necessary.

(6) Authorization of Appropriations. — There are authorized to be appropriated such sums as may be necessary to carry out this subsection.
(g) ATTORNEY GENERAL.—

(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this section as may be necessary to carry out the authorities and functions of immigration judges, administrative law judges, and to carry out such immigration appellate review functions as may be necessary, under this Act through the Executive Office of Immigration Review of the Department of Justice.

(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.

SEC. 1303. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1302, shall be construed to limit judicial deference to regulations, adjudications, interpretations, decisions of immigration judges or administrative law judges, or other actions of the Secretary of Homeland Security or the Attorney General.

SA 4761. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 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 301 of title I of division A, add the following:

SEC. 172. ADMINISTRATIVE SUBPOENAS FOR TERRORISM INVESTIGATIONS.

Section 3486(a)(1)(A) of title 18, United States Code, is amended—

(1) by striking ‘‘; or (II)’’ and inserting ‘‘, (II);’’; and

(2) inserting ‘‘or (III) any investigation under chapter 113B, after ‘children.’’

SA 4762. Mr. HATCH 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. 172. ADMINISTRATIVE SUBPOENAS TO APPREHEND FUGITIVES.

(a) IN GENERAL.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

‘‘§ 1075. Administrative subpoenas to apprehend fugitives.

‘‘(a) DEFINITIONS.—In this section—

(1) FUGITIVE.—The term ‘fugitive’ means a person who—

(A) having been accused by complaint, information, or indictment under Federal law, or having been convicted of committing a felony under Federal law, fleeing or attempts to evade from or evades or attempts to evade the jurisdiction of the court with jurisdiction over the felony;

(B) having been accused by complaint, information, or indictment under State law or having been convicted of committing a felony under State law, fleeing or attempts to flee from, or evades or attempts to evade, the jurisdiction of the court with jurisdiction over the felony;

(C) escapes from lawful Federal or State custody after having been accused by complaint, information, or indictment or having been convicted of committing a felony under Federal or State law; or

(D) is in violation of subparagraph (2) or (3) of the first undesignated paragraph of section 1073.

(2) INVESTIGATION.—The term ‘investigation’ means, with respect to a State fugitive—

(A) the law enforcement officer’s determination to lie on the table; as follows:

At the end of subtitle D of title I of division A, add the following:

SEC. 172. ADMINISTRATIVE SUBPOENAS FOR TERRORISM INVESTIGATIONS.

Section 3486(a)(1)(A) of title 18, United States Code, is amended—

(1) by striking ‘‘; or (II)’’ and inserting ‘‘, (II);’’; and

(2) inserting ‘‘or (III) any investigation under chapter 113B, after ‘children.’’

SA 4761. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 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 301 of title I of division A, add the following:

SEC. 172. ADMINISTRATIVE SUBPOENAS FOR TERRORISM INVESTIGATIONS.

Section 3486(a)(1)(A) of title 18, United States Code, is amended—

(1) by striking ‘‘; or (II)’’ and inserting ‘‘, (II);’’; and

(2) inserting ‘‘or (III) any investigation under chapter 113B, after ‘children.’’

SA 4762. Mr. HATCH 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. 172. ADMINISTRATIVE SUBPOENAS TO APPREHEND FUGITIVES.

(a) IN GENERAL.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

‘‘§ 1075. Administrative subpoenas to apprehend fugitives.

‘‘(a) DEFINITIONS.—In this section—

(1) FUGITIVE.—The term ‘fugitive’ means a person who—

(A) having been accused by complaint, information, or indictment under Federal law, or having been convicted of committing a felony under Federal law, fleeing or attempts to evade from or evades or attempts to evade the jurisdiction of the court with jurisdiction over the felony;

(B) having been accused by complaint, information, or indictment under State law or having been convicted of committing a felony under State law, fleeing or attempts to flee from, or evades or attempts to evade, the jurisdiction of the court with jurisdiction over the felony;

(C) escapes from lawful Federal or State custody after having been accused by com-
other purposes; which was ordered to lie on the table; as follows:

SEC. 313. PROTECTIONS FOR HUMAN RESEARCH SUBJECTS.

The Secretary shall ensure that all research conducted or supported by the Department complies with the protections for human research subjects provided in part 46 of title 45, Code of Federal Regulations, or in equivalent regulations as promulgated by the Secretary.

SA 4764. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

Strike sections 304 and 305 and insert the following:

SEC. 304. RESEARCH PROJECTS.

(a) To encourage science and technology that show promise for homeland security applications.

(b) To establish the following:

(1) ASTRONOMIC NATIONAL STOCKPILE AND BLACK BOX VACCINE DEVELOPMENT.

(B) FUNDAMENTAL RESEARCH AND DEVELOPMENT.

(c) AMERICAN HEROIC DEEPWATER SYSTEM.

(B) have an implementation plan submitted to the Secretary of Defense.

(b) OTHER PROVISIONS.

(B) have an implementation plan submitted to the Secretary of Defense.

(SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY)

SEC. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations permitted by subsection (d) of section 7204 of title 18, United States Code, and the Office of the Inspector General of the United States Customs Service.

SA 4766. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. 313. ESTABLISHMENT OF ENTITY TO INVEST IN NEW TECHNOLOGIES.

The Secretary may provide financial support, to a nonprofit, nongovernment enterprise established by the Secretary for the purpose of identifying and investing in new technology that show promise for homeland security applications.

SA 4767. Mr. GRASSLEY (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 98, strike lines 3 and 4, and insert the following:

“(B) any provision of section 2302, relating to prohibited personnel practices; or

(ii) any provision of law implementing any provision of law referred to in paragraph (8) and (9) of section 2302(b)”.

SA 4768. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 89, strike line 20 and all that follows through page 90, line 2, and insert the following:

(c) NOTIFICATION REQUIRED.—If the Inspector generally exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department of Homeland Security.

SEC. 8K. REPORT ON ACCELERATING THE ACQUISITION OF 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
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.

SEC. 78. Mr. DURBIN 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:

SEC. 4471. 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: (1) an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States; (2) 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 base or as 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.

(b) 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.

(c) 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.

(d) 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 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.

(e) Exception for Certain Foods.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(f) Exception for Small Purchases.—Subsection (a) does not preclude the procurement for amounts not greater than the simplified acquisition threshold (as defined in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(g) 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. 403).

(1) Geographic Coverage.—In this section, the term “United States” includes the possessions of the United States.

SEC. 4472. Review of Food Safety.

(a) Review.—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 of the structure of the Federal food safety oversight:

(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 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 may include—

(A) the effectiveness with which Federal food safety statutes and regulations protect


(a) Definition.—In this section, the term “enterprise architecture” includes—

(1) means—

(A) a strategic information asset base, which defines the mission; and
(B) the information necessary to perform the mission;
(C) the technologies necessary to perform the mission; and
(D) the transitional processes for implementing new technologies in response to changing mission needs; and
(2) includes—

(A) a baseline architecture;
(B) a target architecture; and
(C) a sequencing plan.

(b) Responsibilities of the Secretary.—The Secretary shall—

(1) endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable;
(2) in furtherance of paragraph (1), oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation;
(3) as the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (2); and
(4) report to Congress on the development and implementation of the enterprise architecture under paragraph (2) in—

(A) each implementation progress report required under this Act; and
(B) each biennial report required under this Act.

(c) Responsibilities of the Director of the Office of Management and Budget.—

(1) In General.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(A) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability and aligning information systems of agencies with responsibility for homeland security; and

Grants for Marine Corps High Level Interoperable Systems (2497 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:

SEC. 2457. Procurements by Vessels in Foreign Waters.

(a) Requirement.—An item referred to in subsection (a) is—

(1) any 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 base or as contained in fabrics, materials, or manufactured articles); or
(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(b) 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.

(c) 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.

(d) 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—
Subtitle.—National Emergency Preparedness Enhancement

SEC. 1. SHORT TITLE.
This subtitle may be cited as the “National Emergency Preparedness Enhancement Act of 2002”.

SEC. 2. PREPAREDNESS INFORMATION AND EDUCATION.

(a) Establishment of Clearinghouse.—There is established in the Department of Homeland Security, an Emergency Preparedness Clearinghouse on Emergency Preparedness (referred to in this section as the “Clearinghouse”). The Clearinghouse shall be a one-stop center for emergency preparedness information, including information relevant to the Strategy.

(b) 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 conduct 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 4.

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 and response identified by the Secretary and the heads of other agencies.

SEC. 3. PILOT PROGRAM.

(a) Emergency Preparedness Enhancement Pilot Program.—The Department shall develop, implement, and plan 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 section shall 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 implementation of the activities described in paragraphs (1) and (2) in innovative ways.

(c) Federal Share.—The Federal share of the cost of an activity described in paragraph (b) shall not exceed 50 percent, up to a maximum of $250,000 per grant recipient.

(d) Authorization of Appropriations.—There are appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 4. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) National Week.—Each year that includes September 11 is “National Emergency Preparedness Week”.

(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.
SA 4778. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 156, between lines 11 and 12 insert the following—

(1) 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.

(2) 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.

(k) RESOURCE EVALUATION.—

(1) 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 the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations of the Senate and the House of Representatives—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard’s Integrated Deepwater System from 20 years to 10 years; and

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities; and

(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 4779. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAHAM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 3. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) Review of Transportation Security Efforts.—The Secretary shall conduct a detailed, comprehensive study of the Department of Homeland Security and Transportation and Infrastructure of the House of Representatives, that—

(1) compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001;

(2) estimates—

(i) annual funding amounts and personnel levels that would restore all Coast Guard missions and personnel levels that existed before September 11, 2001; and

(ii) annual funding amounts and personnel levels required to fulfill the Coast Guard’s additional responsibilities for homeland security missions after September 11, 2001; and

(3) 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 for 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 a hourly and monetary basis for each non-homeland security and homeland security Coast Guard mission for the fiscal year just ended.

(c) Strategic Plan.—(1) 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 recommendation for maximizing the efficient use of Federal resources and technologies to achieve all mission requirements.

(2) 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 communication 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.

(3) 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.

(b) 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 Committees on Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations of the Senate and the House of Representatives—

(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; and

(3) provides a revised asset phase-in time line.

SA 4780. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 4. RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) Investigation and Surveillance Activities.—Section 20105 of title 49, United States Code, is amended—

(1) by striking “Secretary of Transportation” in the first sentence of subsection (a) and inserting “Secretary concerned”;

(2) by striking “Secretary” each place it appears (except the first sentence of subsection (a)) and inserting “Secretary concerned”;

(3) by striking “Secretary’s duties under chapter 203 or 213 of this title” in subsection (a) and inserting “duties under chapter 203 or 213 of this title”;

(4) by striking “chapter” in subsection (f) and inserting “chapter (in the case of the Secretary of Transportation)”;

(5) by striking “chapter (in the case of the Secretary of Homeland Security)”;

and
(5) by adding at the end the following new subsection:  
‘‘(g) Definitions.—In this section—
(1) the term ‘security’ 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.

(b) 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 related to railroad safety operations, the Secretary of Homeland Security shall consult with the Secretary.’’

(c) NATIONAL UNIFORMITY OF REGULATION.—Section 20106 of such title is amended—
(1) by inserting ‘‘and, regulations, and order related to railroad safety’’ after ‘‘safety’’ in the first sentence;
(2) by inserting ‘‘after ‘‘safety’’ each place it appears after the first sentence; and
(3) 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 safety matters).’’

SEC. 5. HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—
(1) by striking ‘‘transportation’’ the first place it appears in subsection (b)(1) and inserting ‘‘transportation, including security,’’
(2) by striking ‘‘aspects’’ in subsection (b)(1)(B) and inserting ‘‘aspects, including security,’’
(3) 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 of Homeland Security.

(b) PREEMPTION.—Section 5125 of that title is amended—
(1) by striking ‘‘chapter’’ or a regulation prescribed for the 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’’;
(2) by striking ‘‘chapter’’ or a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security; and
(3) 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 4781. Mr. AKAKA (for himself, Mr. GRASSLEY, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 12. WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 121 of title 49, United States Code, 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) General Regulatory Authority.—(1) each place it appears after the first sentence;
(B) In General.—Notwithstanding paragraph (1),
(i) by striking ‘‘1970.’’ and inserting ‘‘1970.’’;
(ii) the term ‘‘transportation’’

(d) SCREENER PERSONNEL.

(1) by striking ‘‘(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier and inserting ‘‘(a) DISCRIMINATION AGAINST EMPLOYEES.—

(B) IN GENERAL.—No air carrier, contractor, subcontractor, or employer described under paragraph (1),

(i) 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, mission, 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, mission, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish non-homeland security missions without diminishment.

(c) TIMING.—Each director shall provide the report referred to in subsection (a) annually by the 31st of May of the year of the transfer of the entity to the Department.

SA 4783. Mrs. CLINTON (for herself, Mr. INHOFE, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 81, between lines 12 and 13, insert the following:

(7) 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 Agriculture, 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; and

SA 4784. Mrs. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 81, between lines 12 and 13, insert the following:

(7) 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; and

SA 4785. Mrs. CLINTON (for herself and Mrs. SNOWE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 77, between lines 7 and 8, insert the following:

(6) increase the security of the border between the United States and Canada and the ports of entry to include the implementation of projects along that border to strengthen and improve the coordination between the agencies responsible for maintaining that security; and

SA 4786. Mrs. CLINTON (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 77, between lines 7 and 8, insert the following:

(6) increase the security of the border between the United States and Canada and the ports of entry to include the implementation of projects along that border to strengthen and improve the coordination between the agencies responsible for maintaining that security; and

SA 4787. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 135, between lines 10 and 11, insert the following:

§792C. 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, except for Federal funds expended for disaster relief as provided in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), other than pursuant to section 406 (42 U.S.C. 5171), 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 (3 U.S.C. App.) and section 2 of the Act of June 13, 1934 (48 Stat. 946, chapter 42; 40 U.S.C. 276c).

SA 4788. 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. 660. 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 926A the following:

"§926B. 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 authorize the carrying of concealed firearms by qualified law enforcement officers.

"SEC. 662. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(c) As used in this section, the term ‘qualified retired law enforcement officer’ means an individual who—

"(1) is authorized by law to engage in the prevention, detection, investigation, or prosecution of any person for, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

"(2) was employed as a law enforcement officer for an aggregate of 15 years or more; and

"(3) has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(c) As used in this section, the term ‘qualified law enforcement officer’ means an individual who—

"(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) has been shipped or transported in interstate or foreign commerce, subject to subsection (b).
‘‘(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 and qualification for active law enforcement officers 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 926A the following:  
‘‘926C. Carrying of concealed firearms by qualified retired law enforcement officers.’’.

SA 4790. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:  

On page 7, line 14, insert ‘‘tribal,’’ after ‘‘State,’’.  
On page 7, after line 25, insert the following:  

(8) 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 other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as 
tribal government.  
section 102 of the Robert T. Stafford Disaster 

On page 8, strike line 5 through 8 and insert the following:  

The term ‘‘tribal government’’ means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.  

(14) TRIBAL GOVERNMENT.—The term ‘‘tribal government’’ means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.  

(15) UNITED STATES.—The term ‘‘United States’’ means the United States, the District of Columbia, any territory or possession of the United States, any island under the jurisdiction of the United States, any grant of land under the jurisdiction of the United States, any trust territory, any place subject to the jurisdiction of the United States, any portion thereof, any city, village, town, or political subdivision thereof, or any part of another agency within the Department, provided that all functions vested by law in the agen

At the appropriate place, insert the following:  

SEC. 9. REORGANIZATION AUTHORITY.  

(1) DEFINITIONS.—As used in this section, the following definitions shall apply:  

(A) AGENCY.—The term ‘‘agency’’ shall have the meaning given such term in section 911(1).  

(B) IMPLEMENTATION BILL.—The term ‘‘implementation bill’’ means a bill—  

(i) introduced as provided under subsection (e)(1); and  

(ii) containing the proposed legislation included in the reorganization plan submitted to Congress under paragraph (3).  

(C) CALENDAR DAY.—The term ‘‘calendar day’’ means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.  

(D) IN GENERAL.—During the first 2 years after the date of enactment of this Act, if the President determines that changes in the organization of the Department, requiring a change in law, are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan, including proposed legislation to implement the plan, specifying the reorganizations that the President determines are necessary. Any such plan may only provide for—  

(A) the abolition of all or a part of an agency transferred into the Department, provided that all functions vested by law in the agency are preserved within the Department;  

(B) the elimination of a statutory position transferred into the Department, provided that all functions vested by law in the position are preserved within the Department;  

(C) the creation of a new agency or sub-agency within the Department;  

(D) the consolidation or coordination of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency within the Department, provided that all functions vested by law in the affected agencies are preserved within the Department or;  

(E) the transfer within the Department of functions that were transferred into the Department.  

(3) TRANSMITTAL.—  

(A) IN GENERAL.—The President shall transmit to Congress the reorganization plan, which shall include a detailed expla

(B) TIMING.—The reorganization plan shall be delivered to both Houses on the same day
(4) CONTENT.—

(A) TRANSMISSION.—The transmittal message of the reorganization plan shall—

(i) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(ii) include detailed information addressing the impacts of the reorganization on the employees of any agency affected by the plan, and with respect to such employees, a description of any improvements in home-land security management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan.

(B) IMPLEMENTATION.—In addition, the transmittal message shall include an implementation section which shall—

(i) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated nature and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(ii) contain a projected timetable for completion of the implementation process.

(C) BACKGROUND INFORMATION.—The President shall submit such further background or other information as Congress may require for its consideration of the plan.

(5) AMENDMENTS TO PLAN.—Any time during the 20 calendar days of continuous Congress after the date on which the plan is transmitted to it, but before any legislation has been ordered reported, the President, the Senate Majority and Minority Leaders, and the designee of the President, may make amendments or modifications to the plan, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section, except the President may not make any legislation which is inconsistent with the reorganization plan.

(b) ADDITIONAL CONTENTS OF REORGANIZATION PLAN.—A reorganization plan—

(1) may change the name of an agency affected thereby; and

(2) may provide for the appointment and pay of the head and 1 or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization). The transmittal message of the plan declares that, by reason of a reorganization made by the plan, the provisions are necessary.

(c) IMPLEMENTATION BILL.—A committee to which an implementation bill is referred under paragraph (1) shall not be discharged by the Senate until disposed.

(d) RULES OF SENATE AND HOUSE OF REPRESENTATIVES ON REORGANIZATION PLANS.—Subsections (e) through (h) are enacted by Congress—

(1) as an exercise of the rulemaking power by the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of implementation bills with respect to any reorganization plans transmitted to Congress in accordance with subsection (a)(3); and the superceding other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutionality of the changes to be made by the plans, to the extent that they are constitutional, to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other reorganization plan.

(e) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.
more than 10 hours, to be divided equally between individuals favoring and opposing the bill.

(C) Germanness Requirement.—No amendment may be in order which is not germane to the bill and within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (a)(2).

(D) Vote on Final Passage.—Immediately following the conclusion of the debate on the implementation bill, and a single quorum call therefore, the Senate shall dispose of the bill in one day, unless by unanimous consent the Senate shall adjourn prior to the expiration of the time provided for the consideration of the bill. After each amendment is disposed of, the Senate shall proceed to dispose of the remainder of the bill.

(V) Final Vote.—If the Senate shall adjourn prior to the expiration of the time provided for the consideration of the bill, the Senate shall not be required to vote on final passage until the next day, and then only if the Senate shall have considered the amendment proposed by Mr. McCauley to the amendment SA 4795 proposed by Mr. Buning to the amendment SA 4741 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 48 after line 25, insert the following:

(e) Laboratory-Directed Research and Development.—

(1) 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. 7257(a)).

(2) Regulations.—The Secretary shall prescribe regulations for the conduct of laboratory-directed research and development activities on a biennial basis, including:

(iii) 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.

(b) Study of Placement Within Intelligence Community.—Not later than 90 days after the effective date of this Act, the President shall submit to the Committee on Government Reform and the Permanent Select Committee on Intelligence of the Senate and the Committee on Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a report assessing the advisability of the following:

(1) Placing the elements of the Center concerned with the analysis of foreign intelligence information within the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) Placing such elements within the National Foreign Intelligence Program for budgetary purposes.
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, between lines 8 and 9, insert the following:

(1) OPERATIONAL TEST AND EVALUATION—

(a) MAJOR SYSTEM—The term ‘major system’ has the meaning given such term in section 4(g) of the Office of Federal Procurement Policy Act of 1996 (41 U.S.C. 403(g)).

(b) OPERATIONAL TEST AND EVALUATION—The term ‘operational test and evaluation’ means a test, under realistic conditions, of homeland security needs or objectives, together with an evaluation of the results of such test.

SA 4797. Mr. FEINGOLD (for himself, and Mr. MCCONNELL) submitted an amendment intended to be proposed to amendment SA 4730 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 707. 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 the development of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directors, 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. 708. 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 552(a) 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, directors, 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 information.

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary.

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. INSPECTOR GENERAL

(a) IN GENERAL.—Section 3061 of the Revised Statutes is amended—

(1) in paragraph (a), by striking ‘‘(a)’’; and

(2) by adding at the end the following:

‘‘(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 they were included in chapter 4 of title III of the Trade Act of 2002.

SEC. 710. 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.).


(1) in paragraph (1), by inserting ‘‘Health and Human Services.’’; and

(2) in paragraph (2), by inserting ‘‘Health and Human Services.’’

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—In General.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ‘‘Assistant Inspector General’’), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department; and

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) report to the Secretary of the programs and operations of the Department to determine whether the Department’s civil rights
and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act.

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, throughout television, newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) 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, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); 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 of the Department of Homeland Security (in this section referred to as the ‘Inspector General’), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise:

(B) within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

(1) the President of the Senate;

(2) the Speaker of the House of Representatives; and

(3) the Committee on Governmental Affairs of the Senate; and

(iv) the Committee on Government Reform and Oversight of the House of Representatives; and

(v) other appropriate committees or subcommittees of Congress.

(2) the Inspector General shall have oversight responsibility for the internal investigations and audits performed by the Inspector General and any such audits performed in internal investigatory or audit functions in any subdivision of the Department of Homeland Security, with respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

(3) 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)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the Inspector General of the other office performing in internal investigatory or audit functions in any division of the Department of Homeland Security, with respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

(C) The Inspector General issues a notice under subparagraph (B), 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.

(4) 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; and

(3) the Committee on Governmental Affairs of the Senate; and

(4) the Committee on Government Reform of the House of Representatives.

(4)(1) The Assistant Inspector General shall inform the complainant regarding what action was taken in response to a complaint.

(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantees, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. App.) 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 (d)(1)), by striking ‘8H’ and inserting ‘8H, or 8I’.

(f) DEFINITION.—In this Act, the term ‘civil rights and civil liberties’ means rights and liberties which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4798. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. 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; and

(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.

SA 4709. 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, directors, 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 information;
(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate; and
(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General, The Inspector General and the Office of Inspector General are subordinate 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 “Home Security” after “Health and Human Services”;
(2) in paragraph (2), by inserting “Home Security” after “Health and Human Services”; and
(3) in paragraph (3), by inserting “Home Security” after “Health and Human Services”.

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of the Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—
(i) employees and officials of the Department;
(ii) independent contractors retained by the Department; or
(iii) grantees of the Department;
(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—
(i) the Department;
(ii) any unit of the Department; or
(iii) independent contractors employed by the Department; or
(iv) grantees of the Department;
(C) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;
(D) inform the Secretary and Congress of weaknesses in the Department’s activities in the Department relating to civil rights and civil liberties;
(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the necessary action of such complaints, upon request or as appropriate; and
(F) publicize, in multiple languages, the Internet, radio, television, and newspaper advertisements—
(i) on the responsibilities and functions of the Assistant Inspector General; and
(ii) instructions on how to contact the Assistant Inspector General; and
(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committees or committees of Congress, (i) a description of the implementation of this subsection, including the number of complaints received and a general description of each complaint, (ii) instructions on how to contact the Assistant Inspector General, (iii) detailing any civil rights abuses under subparagraph (A), and (iv) 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 8A as section 8B; and
(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“Sec. 8A. (a)(1) Notwithstanding the last 2 sentences of section 8A(a)(3), 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 persons who have provided—
(E) other matters of the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—
(1) section 3056 of title 18, United States Code;
(2) section 222 of title 3, United States Code; or
(3) any provision of the Presidential Protection Assistance Act of 1978 (18 U.S.C. 3056 note); or
(F) other matters of 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 protect—
(A) the prevention of the disclosure of any information described under paragraph (1);
(B) preserve vital national security interests; or
(C) prevent significant impairment to the national interests of the United States.

(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights and civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and file a written request that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—
(i) the President of the Senate;
(ii) the Speaker of the House of Representatives;
(iii) the Committee on Governmental Affairs of the Senate;
(iv) the Committee on Governmental Reform of the House of Representatives;
(v) the Committee on Governmental Affairs of the House of Representatives; and
(vi) any other appropriate committees or subcommittees of Congress.

(D) 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. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

(E)(1) 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 7 calendar days of receipt of such report by the Inspector General, as appropriate, to the appropriate committees or subcommittees of Congress.

(F) The head of each other office described in paragraph (1) shall promptly report to the Inspector General the significant activities undertaken in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

(G) If the Inspector General issues a notice under paragraph (B), 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 section, 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 Governmental Reform of the House of Representatives.

(d)(1) The Assistant Inspector General shall convey to the complainant regarding what actions were taken any response to a complaint.

(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or
grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) by striking "§8" each place it appears and inserting "§8;" and
(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or §8" and inserting "or §8, or paragraph (1);"

(1) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are protected by the Constitution or implementing legislation; or
(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4799. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HUTCHISON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill S. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. 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) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and
(4) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. 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 of the Department in 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 material.

(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 investigation.

SEC. 710. 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 "Home- land Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Home- land 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; and

(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 committees or subcommittees of Congress—

(1) a report on the activities of the Inspector General; and

(2) a report on the activities of the Office of Inspector General; and

(3) the Committee on Governmental Affairs of the Senate; and

(4) The head of each other office described under paragraph (1) shall transmit a copy of any report submitted to the Inspector General under this subsection to the Inspector General, the Committee on Governmental Affairs of the Senate, and any other committees or subcommittees of Congress.

(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) in paragraph (1), by inserting "Home- land Security," after "Health and Human Services;"; and

(2) with respect to the information described under paragraph (1), shall promulgate a rule by which—

(A) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(B) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(C) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(D) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(E) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(F) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(G) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(H) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(I) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(J) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(K) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(L) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(M) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(N) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(O) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(P) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(Q) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(R) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(S) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(T) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(U) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(V) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(W) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(X) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(Y) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(Z) the Department shall transmit a copy of each report submitted to the Inspector General under paragraph (1) to the Inspector General; and

(aa) in subparagraph (A)(ii), by striking "or from issuing any subpoena, after 30 calendar days, a subpoena, or from issuing any subpoena, after 30 calendar days," and

(bb) by striking "security;" after "prosecution;" and

(cc) in subparagraph (B), by striking "security;" after "prosecution;" and

(dd) in subparagraph (E), by striking "security;" after "prosecution;" and

(ee) by inserting "in the case of department or division investigations in the Department (including in any subdivision referred to in paragraph (1)) and the Inspector General considers appropriate;" after the Inspector General may initiate, conduct, and supervise such audits and investigations (including in any subdivision referred to in paragraph (1)) and the Department of Homeland Security, and any other audit or investigation of such matter shall—

(f) Any report required to be transmitted to the Secretary by the Inspector General under paragraph (1) shall promptly be transmitted to the Inspector General.

(g) definitions—

(1) the term "Department" means the Department of Homeland Security established by section 4 of title 6, United States Code; and

(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 “or” each place it appears and inserting “and”; and
(2) in section 8J (as redesignated by subsection (c)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4800. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amend S 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 3005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 8J, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 707. CIVIL RIGHTS OFFICER.
(a) 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 laws and regulations applicable to Department employees and participants in Department programs;
(2) coordinating administration of all civil rights 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. 708. 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. 709. STANDARDS FOR CLOSING REMOVAL PROCEEDINGS.
Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—
(1) by redesignating subsection (e) as subsection (f); and
(2) by inserting after subsection (d) the following:

‘‘(e) STANDARDS FOR CLOSING REMOVAL PROCEEDINGS.—
(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

(2) EXCEPTIONS.—Except as provided in a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—
(A) and with the consent of the alien, to preserve the confidentiality of applications for—
(i) asylum;
(ii) withholding of removal;
(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;
(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1992); or
(v) another applications for relief involving confidential personal information or where portions of the removal hearing involve minor or issues relating to domestic violence; or
(B) to protect the national security by preventing the disclosure of—
(i) classified information; or
(ii) the identity of a confidential informant.’’.

SEC. 710. INSPECTOR GENERAL.
(a) In General.—There shall be in the Department an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate.

(1) in paragraph (1), by inserting ‘‘Home- land Security,’’ after ‘‘Health and Human Services,’’ and;
(2) in paragraph (2), by inserting ‘‘Homeland Security,’’ after ‘‘Health and Human Services’’.

(c) Assistant Inspector General for Civil Rights and Civil Liberties.—
(1) In General.—There shall be in the Department an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ‘‘Assistant Inspector General’’), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) Responsibilities of the Assistant Inspector General.—The Assistant Inspector General shall—
(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—
(i) employees and officials of the Department;
(ii) independent contractors retained by the Department; or
(iii) grantees of the Department;

(b) Coordinated Investigation.—If the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—
(i) the Department;
(ii) any unit of the Department;
(iii) any grantees of the Department;
(iv) independent contractors employed by the Department; or
(v) grantees of the Department;
(vi) conduct investigations and the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, whether the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act; and
(vii) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(viii) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—
(A) information on the responsibilities and functions of the Assistant Inspector General; and
(B) instructions on how to contact the Assistant Inspector General;

(g) On a semi-annual basis, submit to Congress, for referral to the appropriate committees, and the National Commission on the English Language—
(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;
(ii) detailing any civil rights abuses under subparagraph (A); 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.—Title 5, United States Code, is amended—
(1) by redesignating section 81 as section 83; and
(2) by inserting after section 8H the following:

Special Provisions Concerning the Department of Homeland Security

SEC. 81. (a) 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 direction, supervision, 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) any provision of the Executive Order 12333; or
(ii) the disclosure of the which would constitute a serious threat to national security.

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“(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 that would require the Inspector General to disclose any information that would impair the ability of an office or an entity to prevent or respond to an act of terrorism.”

“(A) prevent the disclosure of any information described under paragraph (1);

(B) preserve vital national security interests; or

(C) prevent significant impairment to the national interests of the United States.

(3) The Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ‘Assistant Inspector General’), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“30 Days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice for written response that identifies whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under subsection (1) and describes the reasons for any disagreement to—

(i) the President of the Senate;

(ii) the Speaker of the House of Representatives;

(iii) the Committee on Governmental Affairs of the Senate;

(iv) the Committee on Government Reform and Oversight of the House of Representatives;

(v) other appropriate committees or subcommittees of Congress.

30 Days after receipt of any notice under subparagraph (B), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice for written response that identifies whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under subsection (1) and describes the reasons for any disagreement to—

(i) the President of the Senate;

(ii) the Speaker of the House of Representatives;

(iii) the Committee on Governmental Affairs of the Senate;

(iv) the Committee on Government Reform and Oversight of the House of Representatives;

(v) other appropriate committees or subcommittees of Congress.

No audit or investigation shall be initiated into the subdivisions referred to in subsection (1) by the Inspector General unless the Inspector General, in writing (appropriately classified, if necessary), has received written response from 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;

(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;

(C) assist the Secretary, directorates, and offices with the implementation of requirements imposed by laws considered appropriate by the Secretary; and

(D) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SA 4801. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM, Mr. DASH, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5006, to establish the Department of Homeland Security, and for other purposes, which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 706. 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 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. 707. 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;

(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;

(C) assist the Secretary, directorates, and offices with the implementation of requirements imposed by laws considered appropriate by the Secretary; and

(D) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 708. 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 3H; and

(2) in the table of contents, by striking the item relating to section 3H.

(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.

SEC. 709. STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (b) the following:

‘‘(g) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

‘‘(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

‘‘(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

(A) and with the consent of the alien, to preserve the confidentiality of applications for—

(i) asylum;

(ii) withholding of removal;

(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1920); or

(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve matters involving domestic or issues related to domestic violence; or

(B) to protect the national security by preventing the disclosure of—

(i) classified information; or

(ii) the identity of a confidential informant.’’.
SEC. 710. INSPECTOR GENERAL.


(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) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall:

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department;

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunity Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(E) publicize, in multiple languages, throughout the United States, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, the appropriate committees, or committees, a report—

(I) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A) 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 81 as section 8J; and

(2) by inserting after section 8H the following:

FUNDING FOR THE DEPARTMENT OF HOMELAND SECURITY.

SEC. 81. (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 have oversight responsibility for the Department; or

(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. With respect to investigations relating to civil rights and civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

(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.

(c) The Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of such other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such audit or investigation.

(3)(A) 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.

(B) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General or any other audit or investigation of such matter shall cease.

(4) 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;

(d) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 6J (as redesignated by subsection (d)(1)), by striking “8H” and inserting “8I”.

(f) DEFINITION.—In this Act, the term “civil rights and civil liberties” means rights and liberties which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under the Constitution (whether or not secured by treaty, statute, regulation or executive order).
SA 4371 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 add the following:  

( ) S 4371. Section 202 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386; 114 Stat. 1542) is amended—

(1) in subsection (a)(2)(A)(i)—


(2) by amending subsection (b)(1) to read as follows—

“(b)(1) JUDGMENTS AGAINST DESIGNATED STATE SPONSORS OF TERRORISM.—For purposes of funding the payments under subsection (a) in the case of judgments and sanctions with respect to a government that is a designated state sponsor of terrorism or its entities, the President shall vest and liquidate up to and not exceeding the amount of proceeds of government that has been previously covered under the authorities in this Act (including the agencies or instrumentalities controlled in fact by such government or in which such government owns directly or indirectly controlling interest and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 2(b) of the Trading with the Enemy Act (50 U.S.C. App. 2(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, or regulation issued thereunder.

(3) by amending subsection (b)(2)(B) to read as follows—

“(B) by inserting after the phrase “to the extent of the payments” the phrase “made prior to the date of enactment of this Act”.

SA 4808. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. McCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. Bunning) 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; which was ordered to lie on the table; as follows:

On page 88, insert between lines 7 and 8 the following:

SEC. 702. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary of the Department of Homeland Security an Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs and activities relating to State and local governments.

(b) RESPONSIBILITIES.—An Office established under subsection (a) shall—

(1) coordinate the activities of the Department related 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 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 respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between States.

(c) STATE AND LOCAL GOVERNMENT COORDINATION.

(1) DESIGNATION.—The Secretaries shall designate in each State and the District of Columbia not less than one 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 prioritizing settings 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.

(6) 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) MEMBERS.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the 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 between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) identify probable emerging threats to 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.

(D) CHAIRPERSON.—The Advisory Council shall elect annually a chairperson from among its members.

(E) 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.

(F) MEETINGS.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

SA 4809. Mr. LEIBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM—(for himself, Mr. MILLER, Mr. McCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LEIBERMAN to the bill H.R. 9885, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 111, line 21, strike all through page 125, line 5 and insert the following:

SEC. 303. 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 individual, such as an agency; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any other organizational entity of the Department.

(b) EXPEDITED PROCEDURES.

(1) DEFINITIONS.—In subsections (b) through (i), the following definitions shall apply:

(A) AGENCY.—The term “agency” shall have the meaning given such term in section 102.

(B) IMPLEMENTATION BILL.—The term “implementation bill” means a bill—

(i) introduced as provided under subsection (f); and

(ii) containing the proposed legislation included in the reorganization plan submitted to Congress in accordance with this Act.

(2) CALENDAR DAY.—The term “calendar day” means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(3) IN GENERAL.—During the first 2 years after the date of enactment of this Act, if the President, in consultation with the organization of the Department, requiring a change in law, are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan, including proposed legislation to implement the plan, specifying the reorganizations that the President determines are necessary. Any such plan may only provide for—

(A) the abolition of all or a part of an agency transferred into the Department, provided that all functions vested by law in the agency are preserved within the Department;

(B) the elimination of a statutory position transferred into the Department, provided that all functions vested by law in the position are preserved within the Department;

(C) the creation of a new agency or subagency within the Department;

(D) the consolidation of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency or subagency, provided that all functions vested by law in the affected agencies are preserved within the Department;

(E) the transfer within the Department of functions that were transferred into the Department.

(3) TRANSMITTAL.—

(A) IN GENERAL.—The President shall transmit to Congress the reorganization plan, which shall include a detailed explanation.

(B) TIMING.—The reorganization plan shall be delivered to both Houses on the same day and to each House while it is in session, except that no more than 2 plans may be pending before Congress at 1 time.

(4) CONTENT.—

(A) IN GENERAL.—The transmittal message of the reorganization plan shall—

(i) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(ii) include detailed information addressing the impacts of the reorganization on the employees of any agency affected by the plan, and what steps will be taken to mitigate any impacts of the plan on the employees of the agency; and

(iii) describe any improvements in homeland security management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan.

(B) IMPLEMENTATION.—In addition, the transmittal message shall include an implementation section which shall—

(1) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated savings and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(2) contain a projected timetable for completion of the implementation process.

(C) BACKGROUND INFORMATION.—The President shall submit to the heads of the agencies, including the heads of the agencies from which it is removed under the reorganization plan, the

(4) AMENDMENTS TO PLAN.—Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any legislation is reported in either House, the President, or the designee of the President, may make amendments or modifications to the plan, which amendments or revisions may be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section, except that the President may not modify the proposed legislation included in the plan. The President, or the designee of the President, may withdraw the plan at any time, without prejudice, to the right to resubmit a modified plan.

(D) ADDITIONAL CONTENTS OF REORGANIZATION PLAN.—A reorganization plan—

(1) may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 1 or more other officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the message transmitting the plan declares that, by reason of a reorganization under this section, the functions affected by the reorganization shall have the functions after the reorganization plan is effective; and

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan containing provisions authorized by paragraph (2) may provide that the head of an agency be an individual or a commission or board with more than 1 member. In the case of an appointment of the head of such an agency, the term of office may not be for more than 2 years. No pay may not be at a rate in excess of that found to be applicable to comparable officers in the executive branch, by and with the advice and consent of the Senate. Any reorganization plan containing provisions required by paragraph (4) shall provide for the transfer of unexpended balances and other funds only if such balances are used for the purposes for which the appropriation was originally made.

(E) EFFECT ON OTHER LAWS, PENDING LEGAL PROCEEDINGS.—

(1) EFFECT ON LAWS.—

(A) DEFINITION.—In this paragraph, the term "reorganization action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) EFFECT.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or modification or revision of the functions of an agency resulting from a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action includes the functions in the agency from which it is removed under the reorganization plan, the
function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) PENDING FORMAL PROCEEDINGS.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or relating to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or order of the court filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the action, or other proceeding to proceed to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(e) RULES OF SENATE AND HOUSE OF REPRESENTATIVES ON REORGANIZATION PLANS.—Subsections (f) through (i) are enacted by Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in connection with an implementation bill with respect to any reorganization plans transmitted to Congress in accordance with subsection (b)(3); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules or to regulate the Procedure of that House at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a reorganization plan is submitted to Congress under subsection (b)(3), a single implementation bill shall be introduced (by request—

(A) in the Senate—

(i) by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate; or

(ii) by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate;

(B) in the House of Representatives—

(i) by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives; or

(ii) by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—

(A) IN GENERAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee with primary jurisdiction in the House of Representatives.

(B) COMMITTEE MAY REPORT WITH AMENDMENTS.—A committee to which an implementation bill is referred under subparagraph (A) may report the bill, with amendments proposed to be adopted.

(C) GERMANYNESS REQUIREMENT.—No amendment under subparagraph (B) may be proposed in amendment to a bill—

(i) germane to the implementation bill; and

(ii) within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (b)(2).

(3) REPORT ON DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 75th calendar day after the date of introduction of such bill—

(A) a motion to have the implementation bill discharged shall be in order and highly privileged, with debate limited to 1 hour equally divided; and

(B) upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(4) PAYMENT OF FEE OR DISCHARGE OF COMMITTEES; DEBATE; VOTE ON FINAL PASSAGE.—

(1) PROCEEDURE.—When the committee has reported the bill as amended, deemed to be discharged (under subsection (f)) from further consideration of an implementation bill, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the implementation bill. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. The presiding officer shall reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the implementation bill shall remain the unfinished business of the respective House until disposed.

(2) DEBATE.—

(A) IMPLEMENTATION BILL.—Debate on the implementation bill, and on all debatable amendments, motions, and appeals in connection therewith, shall be limited to not more than 20 hours which shall be divided equally between individuals favoring and individuals opposing the implementation bill.

(B) AMENDMENTS.—Debate on amendments offered on the floor shall be limited to not more than 10 hours, to be divided equally between individuals favoring and opposing the bill.

(2) GERMANYNESS REQUIREMENT.—No amendment shall be in order which is not germane to the bill and within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (b)(2).

(D) SUBSEQUENT MOTIONS.—A motion to recommit the implementation bill is not in order after the adoption of the vote by which the implementation bill is passed or rejected shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the implementation bill, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the implementation bill shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives, as the case may be, to the procedure relating to an implementation bill shall be decided without debate.

(h) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees by the presiding officer shall not be in order.

(2) CONFERENCE REPORT.—No later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses—

(I) COAST GUARD FUNCTIONS AND PERSONNEL.—Implementation bills shall not be considered further for the purposes of section 131(e) of this Act.

(j) 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 outside of that office.

(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 the Department or any succeeding department of the United States shall not be delegated to an officer or employee outside of that entity.

SA 4810. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCMANUS, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINS, and Mr. GLENN) to the the provision in S. 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 16, strike line 1 and all that follows through page 31, line 2, and insert the following:

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

SEC. 201. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established a Directorate of Intelligence which shall serve as a national-level focal point for information analysis and integrating information relating to the plans, intentions, and capabilities of terrorists and terrorist organizations for the purpose of supporting the mission of the Department.

(B) SUPPORT TO DIRECTORATE.—The Directorate of Intelligence shall communicate, coordinate, and cooperate with—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(c) INFORMATION ON INTERNATIONAL TERRORISM;

(i) DEFINITIONS.—In this subparagraph, the terms ‘foreign intelligence’ and ‘counterintelligence’ shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(ii) PROVISION OF INFORMATION TO OTHER AGENCIES.—In order to ensure that the Secretary is provided with appropriate analytical products, assessments,
and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community, or in the absence of the Director of Central Intelligence), the Attorney General, and the heads of other agencies of the Federal Government shall ensure that all information regarding terrorist threats available to them is promptly provided to the Director of Central Intelligence’s Counterterrorist Center.

(iii) ANALYSIS OF INFORMATION.—The Director of Central Intelligence shall ensure the analysis by the Counterterrorist Center of all intelligence and other information provided to the Counterterrorist Center under clause (ii).

(iv) ANALYSIS OF FOREIGN INTELLIGENCE.—The Counterterrorist Center shall have primary responsibility for the analysis of information relating to international terrorism provided to the Counterterrorist Center.

(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.

(1) The Under Secretary for Intelligence shall be responsible for the following:

(A) Receiving and analyzing law enforcement, intelligence, and other information from agencies of the United States Government, State and local government agencies (including law enforcement agencies), and private sector entities, and analyzing information on the vulnerabilities and threats to the homeland consistent with the requirements of subsection (b)(8) unless otherwise determined by the President.

(B) Coordinating, or where appropriate, providing, training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence and other information relating to threats against the United States and other threats to homeland security.

(C) Open source information.

(3) Representing the Department in procedures to establish requirements and priorities in the collection of national intelligence for purposes of the provision to the executive branch under section 103 of the National Security Act of 1947 (50 U.S.C. 403–3) of national intelligence relating to foreign terrorist activity within the United States.

(4) Consulting with the Attorney General or the designees of the Attorney General, and the Secretary of State, the Secretary of Defense, the Secretary of Homeland Security, or the Secretary of Energy, as requested by the President from the agencies described under subsection (a)(1)(B), to receive additional information relating to international terrorism provided to the Counterterrorist Center.

(5) Disseminating information to the Director of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, presumption, and response to threats of terrorism against the United States and other threats to homeland security.

(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department and the appropriate officers of the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, and advanced analytical tools, to carry out the mission of the Counterterrorist Center.

(7) Developing, in conjunction with the Chief Information Officer of the Department and appropriate officers of the agencies described under subsection (a)(1)(B), systems and software, hardware, and other information technology, and security and formatting protocols, to ensure that Federal government databases and information technology systems containing information relevant to terrorist threats, and other threats against the United States, are

(A) compliant with the requirements of subsection (b)(8) unless otherwise determined by the President.

(B) comply with Federal laws concerning privacy and the prevention of unauthorized disclosure.

(8) Ensuring, in conjunction with the Director of Central Intelligence and the Attorney General, that all material received by the Department is protected against unauthorized disclosure.

(9) Providing, through the Secretary, to the Chief Information Officer of the Department, or the Secretary, for selection to positions of greater authority or service by employees within the Department, to be reimbursed detail for periods as determined by the Secretary of the year in which the employee was selected.

(10) Reviewing, analyzing and making recommendations through the Secretary for improvements in the 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.

(11) Reviewing, analyzing and making recommendations through the Secretary for improvements in the 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.

(c) SERVICE AS FACTOR FOR SELECTION.—In selecting individuals to serve as Under Secretary for Intelligence, the President shall consider the following:

(1) Experience in law enforcement or intelligence.

(2) Experience in planning and managing programs and activities of the Department.

(3) Knowledge of and experience in counterterrorism.

(4) Knowledge of and experience in information technology and information security.

(5) Knowledge of and experience in intelligence agencies, private sector entities; and

(6) Knowledge of and experience in law enforcement and intelligence agencies, and in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Counterterrorist Center.

(7) Knowledge of and experience in providing, training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence and other information relating to threats against the United States and other threats to homeland security.

(d) PERSONNEL SECURITY STANDARDS.—The Under Secretary for Intelligence shall be subject to the requirements of part 6 of title 8, U.S.C. 1501 et seq., and related procedures.

(e) COOPERATIVE ARRANGEMENTS.—The Under Secretary for Intelligence shall be subject to the requirements of part 6 of title 8, U.S.C. 1501 et seq., and related procedures.

(f) SERVICE AS FACTOR FOR SELECTION.—The President shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of the provisions of chapter 3 of title 5.

(g) MANAGEMENT AND STAFFING.—The President shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of the provisions of chapter 3 of title 5.

(h) SERVICE AS FACTOR FOR SELECTION.—In selecting individuals to serve as Under Secretary for Intelligence, the President shall consider the following:

(1) Knowledge of and experience in intelligence, relating to the plans, intentions, capabilities, and activities of terrorist organizations, and to other areas of responsibility as described in this division, that may be collected, possessed, or prepared, by any other United States Government agency.

(2) ADDITIONAL INFORMATION.—As the President may further provide, the Secretary shall receive additional information regarding activities of clandestine intelligence agencies, and private sector entities.
Intelligence, shall establish for this sub-
section. (5) PERFORMANCE EVALUATION.—The Sec-
retary shall evaluate the performance of all person-
nel detailed to the Directorate, or deleg-
ate such responsibility to the Under Sec-
retary for Intelligence. (g) INTELLIGENCE COMMUNITY.—Those por-
tions of the Directorate of Intelligence under subsec-
ction (b)(1), and the intelligence-related com-
ponents of agencies transferred by this division to the Department, including the Unit-
ary Intelligence Group, shall be: (1) considered to be part of the United States intelligence community within the mean-
ing of section 32 of the National Secu-
ritv Act of 1947 (50 U.S.C. 401a); and (2) for budgetary purposes, within the Na-
tional Foreign Intelligence Program.

SEC. 202. DIRECTORATE OF CRITICAL INFRA-
STRUCTURE PROTECTION. (a) ESTABLISH-
MENT.— (1) DIRECror.—There is established 
within the Department the Directorate of Critical Infrastructure Protection. (2) UNDER SECRETARv.—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. (b) RESPONSIBILITIES.—The Directorate of Critical Infrastructure Protection shall be responsible for the following: (1) Receiving relevant intelligence from the Directorate of Intelligence, law enforce-
ment information and other information in order to comprehensively assess the vulnerable-
ability of the key resources and critical infra-
structures in the United States, (2) Integrating relevant information, intelli-
gence analysis, and vulnerability assess-
ments (whether such information, analyses, or assessments are provided by the Depart-
ment or others) to identify priorities and support protective measures by the Depart-
ment, by the other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States. (3) Developing a comprehensive national plan for securing the key resources and crit-
ical infrastructure in the United States. (4) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in con-
ducting appropriate risk analysis and risk man-
agement activities consistent with the mission of the Directorate. This shall include, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, establishing procedures, mechanisms, or units for the purpose of utilizing intelligence to identify vulnerabilities and protective measures, (A) public health infrastructure; (B) food and water storage, production and distribution; (C) commerce systems, including banking and finance; (D) energy systems, including electric power and oil and gas production and stor-
age; (E) transportation systems, including pipeline,

SA 4811. Mr. Lieberman submitted an amend-
ment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Strivens (for Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Depart-
ment of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

DIVISION E—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 con-
ents for this division is as follows:

Title XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERN-
MENT SERVICES

provements. 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 Inter-
net. SEC. 3216. Notification of obsolete or coun-
terproductive provisions.

Title XXXIII—FEDERAL INFORMATION SECURITY

SEC. 3301. Information security. TITLE XXXIV—AUTHORIZATION OF AP-
PROPRIATIONS AND EFFECTIVE DATES


SEC. 3002. FINDINGS AND PURPOSES. (a) FINDINGS.—Congress finds the fol-
lowing: (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 un-
evolved weaknesses in information technology to enhance governmental functions and services, achieve more effi-
cient performance, increase access to Gov-
ernment information, and increase citizen participation in Government. (3) Most Internet-based services of the Federal Government are developed and pre-
ented separately, according to the jurisdic-
tional boundaries of an individual depart-
ment or agency, rather than being inte-
grated cooperatively according to function or topic. (4) Internet-based Government services in-
volve interagency cooperation are espe-
cially difficult to develop and promote, in part because of inefficient funding mechanisms to support such interagency co-
operation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical ele-
ment in the management of the Direc-
torate, to be implemented as part of a management framework that also addresses finance, procure-
ment, human capital, and other chal-
enges to improve the performance of Gov-
ernment.

(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 collabo-
ration, and more focused oversight of agency compliance with statutes related to information resource management. (b) PURPOSES.—The purposes of this divi-
sion are the following: (1) To provide effective leadership of Fed-
eral Government efforts to develop and pro-
mote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Bud-
et. (2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participa-
tion in Government. (3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the services to citizens by integrating related functions, and in the use of internal elec-
tronic Government processes, where this col-
laboration would improve the efficiency and effectiveness of the processes. (4) To improve the ability of the Govern-
ment to achieve agency missions and pro-
gram 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 busi-
nesses and other Government entities. (7) To promote better informed decision-
making by policy makers. (8) To promote access to high quality Gov-
ernment information and services across multiple channels. (9) To make the Federal Government more transparent and accountable. (10) To transform agency operations by uti-
lizing, where appropriate, best practices from the 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 disabil-
ities, and other relevant laws.

TITLE XXXIII—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERN-
MENT SERVICES

SEC. 3301. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERN-
MENT SERVICES


* * *

IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

CHAPTER 26—MANAGEMENT AND PROMO-
TION OF ELECTRONIC GOVERNMENT SERVICES

Title 44, United States Code, is amended by inserting after chapter 35 the following:

Sec. 3501. Definitions.

Sec. 3502. Office of Electronic Government.

Sec. 3503. Chief Information Officers Council.

Sec. 3504. E-Government Fund.

Sec. 3505. E-Government report.

Sec. 3506. Definitions.

"In this chapter, the definitions under sec-

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September 26, 2002

CONGRESSIONAL RECORD — SENATE

3101.
§ 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) functions assigned to the Director under title XXXII of the E-Government Act of 2002; and

(3) other electronic government initiatives, including pursuant to 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 104-104; 40 U.S.C. 1131 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.


(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 innovation in e-Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with—

(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, and

(6) accessibility of information technology for persons with disabilities; and

(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 Government 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 innovative initiative information collaboratory through support of pilot projects, research, experimentation, and the use of innovative technologies.

(5) Overseers 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 5313 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1411), 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 public 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 3604;

(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 systems and technologies, such as through the use of extensible markup language.

(9) Sponsor ongoing dialogue that 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 3602.

(c) 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
§ 3503. 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 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 local, and interagency governance.
(7) The Council shall be selected by the Council from among its members.
(8) The Council shall be for a 1-year term, and may serve multiple terms.
(9) 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, protection, 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 the use of the Fund's resources and management policies.
(2) Share experiences, ideas, best practices, and innovative approaches related to information management.
(3) Assist the Director in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance across agencies.
(4) Promote the development and use of common performance measures for agencies that receive information resources management.
(5) Work as appropriate with the National Institute of Standards and Technology and the Chief Information Officers Council, the Office of Management and Budget, and the National Science Foundation to develop recommendations on information technology standards developed under section 5131 of the Clinger-Cohen Act of 1996.
(6) Standards and guidelines for interconnectivity and interoperability as described under section 3309.
(7) Comprehensive, coordinated, and consistent standards and guidelines under section 207 of the E-Government Act of 2002, and standards and guidelines for categorizing Federal Government electronic information to enable compatibility, as well as the use of extensible markup language.
(8) Standards and guidelines for Federal Government computer system efficiency and security.
(9) Work with the Office of Personnel Management to arrange the hiring, training, classification, and professional development needs of the Government related to information resources management.
(10) Work with the Chief Financial Officers Council, the Chief Information Officers Council, the National Science Foundation, the National Institute of Standards and Technology, the National Institute of Standards and Technology, and the Committee on Government Efficiency and Effectiveness of the National Academy of Sciences to review the status of efforts to develop and implement a system to support the implementation of information technology standards developed under section 5131 of the Clinger-Cohen Act of 1996; and
(11) Such other matters as the Director may refer to the Council.
(12) Standards and guidelines for Federal Government computer system efficiency and security.
(13) Work with the Office of Personnel Management to arrange the hiring, training, classification, and professional development needs of the Government related to information resources management.
(14) Work with the Chief Financial Officers Council, the Chief Information Officers Council, the National Science Foundation, the National Institute of Standards and Technology, the National Institute of Standards and Technology, and the Committee on Government Efficiency and Effectiveness of the National Academy of Sciences to review the status of efforts to develop and implement a system to support the implementation of information technology standards developed under section 5131 of the Clinger-Cohen Act of 1996; and
(15) Such other matters as the Director may refer to the Council.
(16) Standards and guidelines for Federal Government computer system efficiency and security.
(17) Work with the Office of Personnel Management to arrange the hiring, training, classification, and professional development needs of the Government related to information resources management.
(18) Work with the Chief Financial Officers Council, the Chief Information Officers Council, the National Science Foundation, the National Institute of Standards and Technology, the National Institute of Standards and Technology, and the Committee on Government Efficiency and Effectiveness of the National Academy of Sciences to review the status of efforts to develop and implement a system to support the implementation of information technology standards developed under section 5131 of the Clinger-Cohen Act of 1996; and
(19) Such other matters as the Director may refer to the Council.
(20) Standards and guidelines for Federal Government computer system efficiency and security.
(21) Work with the Office of Personnel Management to arrange the hiring, training, classification, and professional development needs of the Government related to information resources management.
(22) Work with the Chief Financial Officers Council, the Chief Information Officers Council, the National Science Foundation, the National Institute of Standards and Technology, the National Institute of Standards and Technology, and the Committee on Government Efficiency and Effectiveness of the National Academy of Sciences to review the status of efforts to develop and implement a system to support the implementation of information technology standards developed under section 5131 of the Clinger-Cohen Act of 1996; and
(23) Such other matters as the Director may refer to the Council.
(24) Standards and guidelines for Federal Government computer system efficiency and security.
(25) Work with the Office of Personnel Management to arrange the hiring, training, classification, and professional development needs of the Government related to information resources management.
(26) Work with the Chief Financial Officers Council, the Chief Information Officers Council, the National Science Foundation, the National Institute of Standards and Technology, the National Institute of Standards and Technology, and the Committee on Government Efficiency and Effectiveness of the National Academy of Sciences to review the status of efforts to develop and implement a system to support the implementation of information technology standards developed under section 5131 of the Clinger-Cohen Act of 1996; and
(27) Such other matters as the Director may refer to the Council.
§ 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


§ 3606. Definitions

The term ‘Government’ means the Federal Government and the governments of the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

§ 3607. Heads of department

The heads of the executive departments, the Administrator of the General Services Administration, the Director of the Office of Management and Budget, and the Director of the Office of Personnel Management shall—

(1) carry out the provisions of the Act;

(2) work with other agencies; and

(3) cooperate with each other.

§ 3608. Reports

Each Federal department, agency, and Executive agency shall—

(1) make available all information that they possess or control relating to the Act to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

(2) make available to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives such reports, information, or data as may be requested for the purpose of conducting evaluations under this Act, within the time limits provided for such evaluations under section 3009 of title 31, United States Code;

(3) make a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives at each annual session of Congress;

(4) maintain and make available all information concerning the implementation of this Act; and

(5) provide for periodic notice to Congress of the implementation of the Act.

§ 3609. Advisory committees

(a) In general—The heads of Federal departments, agencies, and Executive agencies shall—

(1) promote and administer policies relating to the implementation of this Act;

(2) consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives; and

(3) report to Congress and the public on activities carried out under this Act.

(b) Committees—The chairs of the committees established under section 3202(f) shall—

(1) be advisory committees;

(2) carry out the provisions of the Act;

(3) work with other agencies; and

(4) cooperate with each other.

§ 3610. Review

(a) In general—The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives shall—

(1) conduct the reviews required by section 3209 of the Act;

(2) review the status of implementation of the Act by the agency of electronic government initiative; and

(3) make recommendations for improving the status of implementation of the Act by the agency of electronic government initiative.

(b) Oversight—The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives shall—

(1) conduct the reviews required by section 3209 of the Act;

(2) review the status of implementation of the Act by the agency of electronic government initiative; and

(3) make recommendations for improving the status of implementation of the Act by the agency of electronic government initiative.

§ 3611. Federal internet portal

The Administrator of General Services shall create and maintain an Internet-based system of providing the public with access to Government information and services directed to the provision of electronic signatures for appropriately secure electronic transactions with Government.

§ 3612. Authority for electronic signing

The Administrator of General Services shall—

(a) promote the use of electronic signatures for appropriately secure electronic transactions with Government;

(b) facilitate the adoption and use of electronic signatures for appropriately secure electronic transactions with Government; and

(c) facilitate the adoption and use of electronic signatures for appropriately secure electronic transactions with Government.

§ 3613. E-government information technology

The Administrator of General Services shall—

(a) promote the use of information technology to deliver Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, agency heads shall consider the impact on persons without access to the Internet, and agency heads shall consider the impact on persons without access to the Internet;

(b) promote policies and guidance established by the Office of Management and Budget, and the related information and services that fulfill the statutory mission and programs of the agency.

§ 3614. E-government status report

(a) In general—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director shall require;

(B) to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

(C) to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives; and

(D) to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) Submission—Each agency shall submit an annual report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(c) Purpose—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.

(d) Authority for appropriations

There are authorized to be appropriated to the General Services Administration, to—

(a) establish and maintain an integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3615. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3616. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3617. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3618. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3619. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3620. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3621. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3622. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3623. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3624. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3625. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.

§ 3626. Federal internet portal

The Administrator of General Services shall—

(a) maintain an Integrated Internet-based system of providing the public with access to Government information and services; and

(b) ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Secretary of Commerce.
(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 ADOPTIONS.—

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 the 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 periodically 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 not file 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.

(d) PRIVACY AND SECURITY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(e) 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.

(f) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—The Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking “shall hereafter” and inserting “may, subject to the limitations of section 606 of the United States Code.”

(g) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except to the extent required to be established after 4 years after that effective date.

(h) DEFERRED.—

(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

(A) the reasons for the deferral; and

(B) 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 Committee on Government Reform and Oversight of the Committee on Appropriations 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 subsection (a) of title 5, United States Code, as commonly referred to as the Administrative Procedures Act.

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable, agencies shall make all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code, (commonly referred to as the Administrative Procedures Act). Online.

(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, 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 publically available information as 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 5 (as added by this Act).

SEC. 3207. ACCESSIBILITY, USBILABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purposes of this section are 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—

(1) “Committee” means the Interagency Committee on Government Information established under subsection (c); and

(2) “directory” means a taxonomy of subjects linked to websites.

(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

(ii) 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 making that Government information available and accessible.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of the recommendation 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 a way that are interoperable across agencies; and
(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3022.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.

(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 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 under the policies.

(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).

(B) the electronic 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) determine 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) UPDATES.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Information and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on 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 2006; and
(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(6) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director 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 deposit 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.

(A) the electronic Government Information on the Internet.

(I) STANDARDS FOR AGENCY WEBSITES.

(1) REQUIREMENT.—For each fiscal year through 2007, each Federal agency shall ensure that—
(A) descriptions of the mission and statutory authority of the agency;
(B) the electronic Government Information on the Internet;
(C) information about the organizational structure of the agency; and
(D) the electronic Government Information on the Internet.
SEC. 3200. 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.—

(I) RESPONSIBILITY.

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or discloses identifiable information that information is shared; and

(ii) initiating a new collection of information that information is collected, maintained, or disseminated using information technology.

(B) 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) require 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;

(ii) require that a privacy impact assessment shall be conducted after the completion of the review under clause (i), prior to the implementation of the system;

(iii) require that the privacy impact assessment is made available to the public through the agency’s website or other means;

(iv) require that the privacy impact assessment be shared;

(v) require that notice or opportunities for comments be provided to individuals regarding what information is collected and how that information is shared;

(vi) require that the information will be secured; and

(vii) require that the rights of the individual under section 552a of title 5, United States Code, are to be protected.

(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.

SEC. 3201. 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 services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, 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; and

(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.

(c) EMPLOYER 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 fiscal year 2007, $700,000.

SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSE.—The purpose of this section is 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.

(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.


(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”; and

(B) by striking “and” at the end of paragraph (1); and

(2) by striking the period at the end of paragraph (2) and inserting “; and”; and

(3) by adding at the end the following:

(3) encouraging the use of the contracting and awarding 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; or

(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 at the end of the sentence “the period for which the Director is authorized to carry out the project”;

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 systems for improving mission-related or administrative processes of the Federal Government.”.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.

(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 using the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain services from 2 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 submit 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, accuracy, or availability of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including public library systems, for 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, 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 section (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 paragraph (1) 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, duplications, data elements within 2 or more Federal 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) of title 5, United States Code, and other relevant law; and

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 522a of title 5, United States Code, and other relevant law; and

(f) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

(g) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) 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 Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(A) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(B) submit a report on the study to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Health, Education, Labor, and Pensions of the Senate;

(iii) the Committee on Government Reform of the House of Representatives; and

(iv) the Committee on Education and the Workforce of the House of Representatives.

(h) 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.

(i) 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.

(j) 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.

(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
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) research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of project management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the National Science Foundation; 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 section, such sums as are necessary for fiscal year 2003.

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, 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—

(A) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(i) the nature of disparities in Internet access;

(ii) the affordability of Internet service;

(iii) the incidence of disparities among different groups within the population; and

(iv) changes in personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(B) 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

(c) CONSEQUENCES.—Related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(d) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives do not have the unintended result of increasing any deficiency in public access to Government services.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2005 to carry out this section.

SEC. 3216. OBSOLETENESS OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that a provision of this Act (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 other factors, the Director shall submit notification of that determination to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

TITLES XXXIII—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriation is specifically provided in title XXXI or XXXII, including the amendments made by such titles, there are authorized to be appropriated such sums as may be necessary to carry out titles XXXI and XXXII for each of fiscal years 2003 through 2007.

SEC. 3402. EFFECTIVE DATES.

(A) TITLES XXXIII AND XXXIV.

(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 4812. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. McCONNELL, Mr. THOMPSON, Mr. STEPHENS, Mr. HAGEL, Mr. MURkowski, and Mr. BUNNING) to the amendment SA 4711 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 82, line 10, strike all through page 84, line 7, and insert the following:

(5) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Preparedness and Response of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System; and

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Team.

(E) the special events response; and

(F) the citizen preparedness programs.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.
SA 4813. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. McCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill S. 5005, to establish the Department of Homeland Security, for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 9 and all that follows through page 90, line 2, and insert the following:

SEC. 710. INSPECTOR GENERAL.

(1) in paragraph (1), by inserting “Home-land Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Home-land Security,” after “Health and Human Services.”;

(b) 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; and

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.


(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. 8J. (a)(1) Notwithstanding the last 2 sentences of subsection (a)(1), 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 personnel 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 from issuing any 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; and

(D) the Committee on Governmental Affairs of the House of Representatives.

(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for Civil Rights and Civil Liberties who shall, in accordance with applicable laws and regulations governing the civil service, perform an 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 from issuing any 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.

(2) 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; and

(D) the Committee on Governmental Affairs of the House of Representatives.

(d) 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 “8H” and inserting “8H, or 8I.”

SA 4814. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. McCONNELL, Mr. VIVIAN, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill S. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 9 and all that follows through page 90, line 2, and insert the following:

SEC. 710. INSPECTOR GENERAL.

(1) by redesignating section 8I as section 8J; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "Inspector General" and inserting “Assistant Inspector General for Civil Rights and Civil Liberties”.

(b) Review of the Department of Homeland Security.—

(1) Assistant IG.—The Assistant Inspector General shall, in accordance with applicable laws and regulations governing the civil service, perform an 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 from issuing any 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.

(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) 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; and

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.


(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. 8J. (a)(1) Notwithstanding the last 2 sentences of subsection (a)(1), the Assistant Inspector General of the Department of Homeland Security (in this section referred to as the “Assistant 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) instructions on how to contact the official; and

(D) in carrying out the duties and responsibilities under this Act, the Assistant Inspector General shall have oversight responsibility 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—

(A) 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.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—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) the maintenance of the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

(i) section 3506 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. 3506 note);

(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, complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent—

(A) prevent the disclosure of any information described under paragraph (1);
(B) preserve vital national security interests; 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 by 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 of 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.

(b)(2) The head of each other office described in any subdivision of 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;

(b)(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(b)(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SA 4816. Mr. Lieberman submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 ordered 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 15, after line 23, insert the following:

SEC. 105. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) coordinating all Department civil rights and related laws and regulations applicable to Department employees and participants in Department programs;
(2) assisting the Secretary, by giving advice and consent of the Senate.

SEC. 105. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Privacy Officer shall be responsible for—

(1) overseeing compliance with all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;
(2) coordinating all Department civil rights and related laws and regulations within the Department for Department employees and participants in Department programs; and
(3) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SA 4817. Mr. Lieberman submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 ordered 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 109, line 14, strike all through page 110, line 4.

SA 4818. Mr. Lieberman submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchison, and Mr. Bunning) to the amendment SA 4471 ordered 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, strike lines 6 through 12, and insert the following:

(e) OTHER OFFICERS.—

(A) GENERAL.—The Secretary shall have the authority to establish the Department of Homeland Security in connection with the agreements under paragraph (1).

(b) JOINT STRATEGIC PRIORITIZATION AGREEMENTS BETWEEN THE SECRETARY AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(1) 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.

(2) The Secretary shall have the authority to establish agreements under joint strategic prioritization agreements between the Secretary and the Department of Health and Human Services.

(c) MANAGEMENT OF RESEARCH PROGRAMS.—

All research programs established under the agreements under paragraph (1) shall be managed and awarded by the Director of the National Institutes of Health consistent with those agreements.

(d) TRANSFERRING FUNDS.—The Secretary may transfer funds to the Department of Health and Human Services in connection with the agreements under paragraph (1).

SEC. 4821. MR. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 22, strike line 18 and all that follows through page 33, line 14.

SEC. 4820. MR. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

On page 42, strike line 22 and all that follows through page 44, line 14, and insert the following:

SEC. 305. RESEARCH IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) AUTHORITY.—The Secretary may carry out human health biodefense-related biological, biomedical, and infectious disease research and development (including vaccine research and development) in collaboration with the Secretary of Health and Human Services.

(b) JOINT STRATEGIC PRIORITIZATION AGREEMENTS.—

(1) In GENERAL.—Research supported by funding appropriated to the National Institutes of Health for bioterrorism research and related facilities development shall be conducted through the National Institutes of Health under joint strategic prioritization agreements between the Secretary and the Secretary of Health and Human Services.

(2) GENERAL RESEARCH PRIORITIES.—The Secretary shall have the authority to establish general research priorities, which shall be embodied in the agreements under paragraph (1).

(3) SPECIFIC SCIENTIFIC RESEARCH AGENDA.—The specific scientific research agenda to be incorporated into the agreements under paragraph (1) shall be developed by the Secretary of Health and Human Services, who shall consult the Secretary of Homeland Security to ensure that the agreements conform with homeland security priorities.

(4) MANAGEMENT OF RESEARCH PROGRAMS.—All research programs established under the agreements under paragraphs (1) or (2) shall be managed and awarded by the Director of the National Institutes of Health consistent with those agreements.

(b) Transfer of Funds.—The Secretary may transfer funds to the Department of Health and Human Services in connection with the agreements under paragraph (1).

SEC. 708. 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. 709. 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 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. 710. INSPECTOR GENERAL.

(a) 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.”

(b) 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 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.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—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, or with respect to matters that would constitute a serious threat to the protection of any person or property authorized by the Secretary.
SA 4822. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4736 proposed by Mr. GRANN (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005. In issuing the report on September 26, 2002.

SEC. 709. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Civil Rights 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, directors, 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. 707. SEC. 709. CIVIL RIGHTS 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, directors, 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. 708. 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, directors, 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. 706. 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—

(1) ensure 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, directors, 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 Department 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. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Home- land Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Home- land Security,” after “Health and Human Services.”;

(b) 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, information on the responsibilities and functions of 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.

(c) 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 8J the following:

“SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

SEC. 8J. (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 section 3056 of title 18, United States Code;

(F) the last 2 sentences of section 202 of title 3, United States Code; or

(G) 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 audit or investigation has been initiated, 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 vital national security interests;

“(C) prevent significant impairment to the national interests of the United States;”.

“(3) 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 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 Governmental Reform of the House of Representatives; and

“(E) other appropriate committees or subcommittees of Congress.

“(b) 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 the 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 that would be performed in any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

“(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. The 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.

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“SEC. 709. 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, directors, 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; and

“(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

“(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 Department; and

“(2) independent contractors employed by the Department.

“(d) Conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

“(1) the Department; and

“(2) independent contractors employed by the Department.

“(e) Conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall have no responsibility for the enforcement of the Equal Employment Opportunities Act;
(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) require the prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the merits of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report on the duties and responsibilities of the Civil Rights Officer.

(b) RESPONSIBILITIES.

(1) The Assistant Inspector General shall, with the advice and consent of the Senate, be appointed by the President, by and with the advice and consent of the Senate.

(2) With respect to any complaints referred to as the ‘Assistant Inspector General’, in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercises.

(3) The Inspector General may initiate, conduct, and supervise such audits and investigations as the Inspector General considers appropriate.

(4) The Inspector General shall have oversight responsibility for the internal investigations and audits performed by the civil rights office.

(b) DIRIGE POLITICS.

(1) The President of the Senate;

(ii) the Speaker of the House of Representatives;

(iii) the Committee on Governmental Affairs;

(iv) the Committee on Government Reform of the House of Representatives; and

(v) other appropriate committees or subcommittees of Congress.

(2) The head of each other office described in subparagraph (A) shall promptly report to the Inspector General the significant activities being carried out by such office.

(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations as the Inspector General considers appropriate.

(4) The Inspector General may provide the head of the other office with appropriate 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, informants, or cooperators;

(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 3556 of title 18, United States Code;

(ii) section 202 of title 3, United States Code;

(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3556 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 notice the 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.

(A) prevent the disclosure of any information described under paragraph (1);
(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 information;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary;

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 706. CIVIL RIGHTS OFFICER.

(a) In GENERAL.—There shall be in the Department an Assistant 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 “Home- 

land Security,” after “Health and Human 

Services,”; and

(2) in paragraph (2), by inserting “Home-

land Security,” after “Health and Human 

Services.”.

(c) ASSISTANT INSPECTOR GENERAL FOR 

CIVIL RIGHTS AND CIVIL LIBERTIES—

(1) In GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(C) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, the Assistant Inspector General may prohibiting 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 vital national security interests; or

(C) prevent significant impairment to the national interests of the United States.

(B)(A) 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.

(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written report that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with such exercise of power under paragraph (1) and describes the reasons for any disagreement, to—

(i) the President of the Senate;

(ii) the Speaker of the House of Representa-

tives; and

(iii) the Committee on Governmental Af-

ners of the Senate.

(c) IN GENERAL.—The Assistant Inspector General shall—

(1) I N GENERAL .

(2) With respect to any complaints re-

ceived or investigations undertaken by the Assistant Inspector General, any person em-

ployed by an independent contractor, or 

grantee, of the Department shall be entitled to the same protections as are provided to em-

ployees of the Department under section 7(a).

(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

(2) With respect to any complaints re-

ceived or investigations undertaken by the Assistant Inspector General, any person em-

ployed by an independent contractor, or 

grantee, of the Department shall be entitled to the same protections as are provided to em-

ployees of the Department under section 7(a).

(e) TECHNICAL AND CONFORMING AMEND-

MENTS.—(1) On page 88, strike line 8 and all that fol-

low through page 90, line 2, and insert the 

amendment intended to be proposed to amend SA 4805.

SA 4805. Mr. FEINGOLD (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed to amend section 5(d) of amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEWART, Mr. HAGEL, Mr. FORSTER, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. 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 the Department’s civil rights programs and policies with the development and implementation of 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 appropriate incorporation and implementation 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. 709. 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 reports under paragraph (1) or (2), and with requests or audits or investigations, or the issuance of subpoenas, which require access to sensitive information, including protected witnesses;

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. 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 “Home Security,” after “Health and Human Services,”; and

(2) by inserting after paragraph (2), by inserting “Home Security,” after “Health and Human Services.”;

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties, who shall be appointed without regard to political affiliation and solely on the basis of demonstrated competence in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints concerning any source alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties for—

(i) the Department; or

(ii) any unit of the Department;

(C) coordinate the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements,—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to appropriate committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); 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 81 as section 81F; and

(2) by inserting after section 81H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY—

Sec. 81A. (a) 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 national security.

(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General any significant activities being carried out by such office.

(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General shall have investigative authority 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. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this paragraph shall be exercised by the Assistant Inspector General.

(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General any significant activities being carried out by such office.

(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General shall have investigative authority 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. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this paragraph shall be exercised by the Assistant Inspector General.

(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General shall have investigative authority 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. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this paragraph shall be exercised by the Assistant Inspector General.
“(C) If the Inspector General issues a notice under subparagraph (B), 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 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.

“(d)(1) The Assistant Inspector General shall ensure that civil rights considerations are appropriate and, where appropriate, shall be included in all Department for Department employment opportunities, as follows:

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.

“(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”;

“(2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

“SA 4806. Mr. FEINGOLD (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 3005, to establish the Department of Homeland Security, and for other purposes; which was ordered to be lie on the table; as follows:

“On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Management

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, 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 laws and regulations with which the Department is required to comply;

(2) coordinating administration of all civil rights laws and regulations with which the Department is required to comply;

(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. 709. 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. 710. INSPECTOR GENERAL.


(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating subsection (A) as subsection (B);

(2) by striking paragraphs (B) and (C) and inserting paragraphs (B) and (C) following—

(3) by striking subparagraph (A) and inserting subparagraph (A) following—

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of the Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and shall—

(A) maintain the authority, deputized, and responsibilities of the Assistant Inspector General;

(B) provide the investigative services of the Assistant Inspector General;

(C) oversee, coordinate, and implement the policies and procedures of the Assistant Inspector General;

(D) act upon request or as appropriate under section 8J or as prescribed by the Inspector General;

(E) publicize, in multiple languages, the authority, deputized, and responsibilities of the Assistant Inspector General;

(F) establish, maintain, and coordinate the procedure and performance evaluation process for the Assistant Inspector General;

(G) provide guidance to the Assistant Inspector General and the Office of the Inspector General; and

(H) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunity Act of 1972, as amended.

(b) RESPONSIBILITIES.—The Assistant Inspector General 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.

(c) EFFECTS OF INSPECTION.—The Inspector General shall—

(1) by redesignating subsection (A) as subsection (B);

(2) by striking paragraphs (B) and (C) and inserting paragraphs (B) and (C) following—

(3) by striking subparagraph (A) and inserting subparagraph (A) following—

(d) INSPECTION AND INVESTIGATION.—The Inspector General shall—

(1) conduct, carry out, or complete such audit or investigation, or the issuance of a subpoena, as the Inspector General has decided to initiate, carry out, or complete such audit or investigation, or the issuance of a subpoena, after request or as appropriate under section 8J or as prescribed by the Inspector General;

(2) upon request or as appropriate under section 8J or as prescribed by the Inspector General, any other audit or investigation, or the issuance of a subpoena, which requires 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 national security.

(e) REPORTS.—In each semiannual period, the Inspector General shall—

(1) transmit to the appropriate committees of Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General; and

(B) detailing any civil rights abuses under subparagraph (A); and

(C) accounting for the expenditure of funds to carry out this subsection.


(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 those 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 national security.

(b) 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 the issuance of a subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation.
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 vital national security interests; or

(‘C) prevent significant impairment to the national interests of the United States.

(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ‘Assistant Inspector General’), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

(‘B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

(i) the President of the Senate;

(ii) the Speaker of the House of Representatives;

(iii) the Committee on Governmental Affairs of the Senate;

(iv) the Committee on Government Reform of the House of Representatives; and

(v) other appropriate committees or subcommittees of Congress.

(b) 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 investigative or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

(c) 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)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the subdivision (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 subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide to 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.

(C) If the Inspector General issues a notice under subparagraph (B), 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 record to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the time period specified under that subsection, to—

(1) the President of the Senate;

(2) the Speaker of the House of Representatives; and

(3) the Committee on Governmental Affairs of the Senate; and

(4) the Committee on Government Reform of the House of Representatives.

(4)(d) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

(2) With respect to any complaints received or investigations undertaken by the United States under any other office employed by an independent contractor, or grantees of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.

(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 ‘310’ each place it appears and inserting ‘315’; and

(2) in section 4(j) as redesignated by subsection (d)(1), by striking ‘or 315’ and inserting ‘313, 315, or 317’.

SA 4807. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING 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; which was ordered to lie on the table; as follows:

On page 102, strike lines 1 through 8.

SA 4825. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING 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; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Homeland Security and Combating Terrorism Act of 2002”.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

(1) Division A—National Homeland Security and Combating Terrorism.


(3) Division C—Federal Workforce Improvement.


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

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions;

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM Sec. 100. Definitions.

**TITLE I—DEPARTMENT OF HOMELAND SECURITY**

Subtitle A—Establishment of the Department of Homeland Security

Sec. 2306. Privacy provisions.
Sec. 2309. Federal information technology workforce development.
Sec. 2310. Common protocols for geographic information system, data, and information sharing.
Sec. 2321. Share-in-savings program improvements.
Sec. 2312. Integrated reporting study and pilot programs.
Sec. 2313. Community technology centers.
Sec. 2314. Enhancing crisis management through advanced information technology.
Sec. 2315. Disparities in access to the Internet.
Sec. 2316. Notification of obsolete or counterproductive provisions.

TITLE XXXI—GOVERNMENT INFORMATION SECURITY
Sec. 3301. Information security.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES
Sec. 4010. Army department of appropriations.
Sec. 4012. Effective dates.

DIVISION B—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

DIVISION C—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

SEC. 100. DEFINITIONS.
Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) AGENCY—Except for purposes of sub- 
section B of this section, the term “agency”—

(A) means—

(i) an Executive agency as defined under 
section 105 of title 5, United States Code;
(ii) a strategic information asset base, 
which defines the mission;
(iii) the information necessary to perform 
the mission;
(iv) the technologies necessary to perform 
the mission; and
(v) the information systems, change 
management, mitigation, and commu-
nication of homeland security threats, vuler-
abilities, criticalities, and risks.

(B) does not include the General Account-
ing Office of the United States, the Joint 
Intelligence Center, the Central Intelligence 
Agency, the Defense Intelligence Agency, or 
the National Geospatial Intelligence Agency.

(2) ASSETS—The term “assets” includes 
contracts, facilities, property, resources, or 
other items.

(3) DEPARTMENT.—The term “Department” 
means the Department of Homeland Security 
created 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 implement-
ing new technologies in response to 
changing mission needs;

(B) includes—

(i) a baseline architecture;
(ii) a target architecture; and
(iii) a sequencing plan.

(5) FEDERAL TERRORISM PREVENTION AND 
RESPONSE AGENCY.—The term “Federal 
terrorism prevention and response agency” 
means any department or agency charged 
with responsibilities for carrying out a homeland security strategy.

(6) FUNCTIONS.—The term “functions” in-
cludes all powers, duties, responsibilities, 
immunities, programs, projects, activities, 
duties, responsibilities, and obligations.

(7) HOMELAND.—The term “homeland” 
means the United States, in a geographic 
sense.

(8) LOCAL GOVERNMENT.—The term “local 
government” means a city, county, or other 
local governmental unit located in the United 
States. (9) PERSONNEL.—The term “personnel” 
means officers and employees.

(10) RISK ANALYSIS AND RISK MANAGE-
MENT.—The term “risk analysis and risk 
management” means officers and employees 
responsible for carrying out the functions 
paragraphs (a) and (b) of section 102(6) of the 
Robert T. Stafford Disaster Relief and Emergency Assistance Act 
(Public Law 93–288).

(11) SECRETARY.—“Secretary” means the Secretary of Homeland Security.

(12) UNITED STATES.—The term “United 
States”, when used in a geographic sense, 
means any State, the District of Columbia, the 
States, and any waters within the jurisdic-
tion of the United States.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—There is established the Department of Homeland Security.

(b) EXECUTIVE DEPARTMENT.—Section 101 of title 5, United States Code, is amended by adding at the end the following:

“SEC. 501. Executive Department.
(a) The President shall establish the Department of Homeland Security under the jurisdiction of the Secretary of Homeland Security.

(b) The President shall appoint the head of the Department, who shall be known as the Secretary of Homeland Security.

(c) The Secretary shall be the head of the Department, who shall be responsible for carrying out the other missions of the Department, including—

(1) coordinating with State, regional, 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, includ-
ing warnings, regarding threats posed by ter-
rorism in a timely and secure manner;

(B) facilitating efforts by United States local law enforcement and other officials to assist in the collection and dissemination of intel-
ligence information and to provide informa-
tion 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 the public, to ensure adequate planning, team work, co-
ordination, information sharing, equipment, 
training, and exercise activities;

(D) consulting State and local govern-
ments, and other entities as appropriate, in 
developing a homeland security strategy; and

(E) systematically identifying and remov-
ing obstacles to developing effective partner-
ships between the Department, other agen-
cies, and State, regional, and local govern-
ment personnel, agencies, and authorities, 
the private sector, other entities, and the 
public to secure the homeland.

(10) To consult and coordinate with the 
Secretary of Defense and the governors of 
the several States regarding integration of 
State, regional, and local government 
personnel, agencies, and authorities, 
the National Guard, into all aspects of a home-
land security strategy and its implementa-
tion, including detection, prevention, protec-
tion, response, and recovery.

(2) To consult and coordinate with the 
Secretary of Defense and make recommenda-
tions concerning organizational structure, 
equipment, and policies, for the adminis-
tration, planning, and operation of military as-
sets determined critical to executing a homeland security strategy.

(2) RESPONSIBILITIES.—The responsibilities of the Secretary shall be the following:

(1) To develop policies, goals, objectives, 
plans, and projects for the United States 
for homeland security, in particular with 
respect 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 disaster recommendations re-
ating to a homeland security strategy, border 
and transportation security, infrastruc-
ture protection, emergency preparedness and 
response, science and technology promotion 
related to homeland security, and Federal 
support for State and local activities.

(5) To identify and promote key scientific and 
technological advances that will enhance homeland security.

(6) To serve as a national focal point to 
analyze all information available to the 
United States related to events of terrorism 
and other homeland threats.

(7) To establish and manage a comprehen-
sive risk analysis and risk management pro-
gram that directs and coordinates the sup-
porting risk analysis and risk management activities of the Directors and ensures co-
ordination with entities in the Depart-
ment 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 warn-
ings, regarding threats posed by ter-
rorism in a timely and secure manner;

(B) facilitating efforts by United States 
local law enforcement and other officials to assist in the collection and dissemination of intel-
ligence information and to provide informa-
tion 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 the public, to ensure adequate planning, team work, co-
ordination, information sharing, equipment, training, and exercise activities;

(D) consulting State and local govern-
ments, and other entities as appropriate, in 
developing a homeland security strategy; and

(E) systematically identifying and remov-
ing obstacles to developing effective partner-
ships between the Department, other agen-
cies, and State, regional, and local govern-
ment personnel, agencies, and authorities, 
the private sector, other entities, and the 
public to secure the homeland.

(10) To consult and coordinate with the 
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tion, including detection, prevention, protec-
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Secretary of Defense and make recommenda-
tions concerning organizational structure, 
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for homeland security, in particular with 
respect 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 disaster recommendations re-
ating to a homeland security strategy, border 
and transportation security, infrastruc-
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 assistance of the United States Department of Homeland Security.

(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 facilities and equipment used by 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, including implementation of representative enterprise architectures.

(18) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17) in coordination with homeland security and emergency preparedness with regard to terrorism and other manmade and natural disasters.

(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 185; and

(B) each biennial report required under section 186.

(f) Visa Issuance by the Secretary—

(1) DEFINITION.—In this subsection, the term ‘‘consular officer’’ has the meaning given that term under section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(2) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided under paragraph (3),—

(A) each implementation progress report required under section 185; and

(B) each biennial report required under section 186.

(g) VISA ISSUANCE BY THE SECRETARY.—

(1) DEFINITION.—In this subsection, the term ‘‘consular officer’’ has the meaning given that term under section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(i) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).


(v) Section 212(a)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(vi) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(vii) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(viii) Section 218(a) of the Immigration and Nationality Act (8 U.S.C. 1188(a)).

(ix) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).


(xi) Section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, 1999 (Public Law 105–277).


(xv) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(xvi) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)) as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption.

(2) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 2327).

(h) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(A) IN GENERAL.—The Secretary is authorized to assign employees of the Department to diplomatic and consular posts abroad to perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to operations and individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(B) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in subparagraph (A) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibilities. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(i) TRAINING AND HIRING.—

(1) IN GENERAL.—The Secretary shall ensure that any employee of the Department assigned to perform functions described in subparagraph (A), as appropriate, consular officers, shall be provided all necessary training to enable them to carry out such functions, including training in foreign language proficiency of the particular country where each employee is assigned, and in other appropriate areas of study.

(2) FOREIGN LANGUAGE PROFICIENCY.—Before designating employees of the Department to perform the functions described under subparagraph (A), the Secretary shall promulgate regulations establishing foreign language proficiency requirements for employees of the Department performing the functions described under subparagraph (A) and providing that preference shall be given to individuals who meet such requirements in hiring employees for the performance of such functions.

(3) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in clause (1).

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(5) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress certifying forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(6) 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. 102. DEPUTY SECRETARY OF HOMELAND SECURITY.

(1) 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.

(2) RESPONSIBILITIES.—The Deputy Secretary of Homeland Security shall—

(A) assist the Secretary in the administration and operations of the Department; and

(B) perform such other responsibilities as the Secretary shall prescribe.

(3) ACT AS SECRETARY.—If the Secretary is absent from the Government of the United States or is unable to perform the duties of the office of Secretary, the Deputy Secretary shall—

(A) act as Secretary; and

(B) perform the duties and functions of the Secretary until the appointment of a successor is made by the President, by and with the advice and consent of the Senate.

SEC. 103. UNDER SECRETARY FOR MANAGEMENT.

(1) 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.

(2) RESPONSIBILITIES.—The Under Secretary for Management shall—

(A) budget, appropriations, expenditures of funds, accounting, and finance;
(2) procurement;
(3) human resources and personnel;
(4) information technology and communications systems;
(5) real 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 “Home- land 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 regarding abuses of civil rights and civil liberties by employees and officials of the Department;

(2) disclose 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.


(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

"8I..—(a) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (or any other officer or head 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.

(1) intelligence or counterintelligence matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

(A) section 3056 of title 18, United States Code;

(B) section 202 of title 3, United States Code; or

(C) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

(6) 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 declined 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;

(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 General Counsel 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;

(D) the Committee on Government Reform; and

(E) other appropriate committees or subcommittees of Congress.

(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning the subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigations and audits in any subdivision of the Department of Homeland Security with 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.

(e) Whenever the Inspector General determines that an audit or investigation referred to in paragraph (1) is of particular importance to the national interests of the United States, the Inspector General shall notify the President of the Senate and the Speaker of the House of Representatives by and with the advice and consent of the Senate.

(f) The Secretary may not initiate any audit or investigation in any subdivision with written notice that the Inspector General has initiated such an audit or investigation.

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Chief Financial Officer shall—

(1) manage the financial affairs 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. 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 by the Chief Financial Officer.

(b) RESPONSIBILITIES.—The Chief Information Officer shall—

(1) serve as the chief privacy 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).
ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;
(4) overseeing compliance with statutory and departmental 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, directors, 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) planning and advocating a culture of continuous learning to attract and retain employees with superior abilities;
(5) identifying best practices and benchmarking;
(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. 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. —The Director shall have the following responsibilities:
(1) To promote information and education exchange with foreign nations in order to develop and use technologies relating to homeland security. Such information exchange shall include—
(A) joint research and development on counterterrorism;
(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 appropriate appropriation, 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:
“Assistant Secretaries 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.”.
(2) Inspector General, Department of Homeland Security.
(3) Chief Financial Officer, Department of Homeland Security.
(4) Chief Information Officer, Department of Homeland Security.
(5) 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 Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.
(c) Responsibilities.—The Directorate of Border and Transportation Protection shall be responsible for the following:
(1) Securing the borders, territorial waters, ports, terminals, waterways and air, land (including rail), and sea transportation systems of the United States, including coordination of governmental activities at ports of entry.
(2) Receiving and providing relevant intelligence on threats of terrorism and other homeland threats.
(3) Administering, carrying out, and promoting other established missions of the entities transferred to the Directorate.

Using intelligence, the Directorate of Intelligence and other Federal intelligence organizations under section 175 shall establish procedures to identify products and other goods imported from suspect locations recognized by the intelligence community as having terrorist, law enforcement, regulations related to customs revenue authorities, and harboring terrorists.

(5) Providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities that have established partnerships with the Federal Law Enforcement Training Center.
(6) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk management activities consistent with the mission and functions of the Directorate.

Subtitle C—Transfer of Authorities, Functions, Personnel, and Assets to the Department
(7) Performing such other duties as assigned by the Secretary.
(c) Transfer of Authorities, Functions, Personnel, and Assets to the Department.—Except as provided under subsection (b), the authorities, functions, personnel, and assets of the following entities are transferred to the Department:
(1) The United States Customs Service, which shall be maintained as a distinct entity within the Department.
(2) The United States Coast Guard, which shall be maintained as a distinct entity within the Department.
(3) The Transportation Security Administration of the Department of Transportation.
(4) The Federal Law Enforcement Training Center of the Department of Justice.
(d) Exercise of Customs Revenue Authority.—
(1) In general.—(A) Authorities not transferred.—Notwithstanding subsection (c), authority that was vested in the Secretary of the Treasury by law 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.
(B) The Secretary, by law and regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.
(2) 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 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 or answerable in any action or legal proceeding for or named in any provision of this Act relating to the collection, receipt, custody, or distribution of customs revenue functions:


(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).


(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).


(G) The Foreign Trade Zone Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 19).


(L) The Uruguay Round Agreements Act (19 U.S.C. 3501 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, 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 international trade legislation.

(e) PRESERVING COAST GUARD MISSION PERFORMANCE.—

(1) DEFINITIONS.—In this subsection:

(A) NON-HOMELAND SECURITY MISSIONS.—The term ‘‘non-homeland security missions’’ means the following missions of the Coast Guard:

(i) 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.

(d) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and methods of operation of the non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as provided in subsequent Acts.

(3) CERTAIN TRANSFERS PROHIBITED.—None of the missions, functions, personnel, and assets identified in subsection (a) of this section, or any portion thereof, of the non-homeland security missions 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 thereof, 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 2 years with respect to any non-homeland security mission and certification by the President to Congress that a clear, compelling, and immediate national emergency exists that justifies such a waiver. A certification under this 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 Homeland Security and Governmental Affairs of the Senate; and

(iii) the Committee on Transportation and Infrastructure of the House of Representatives.

(6) DIRECT REPORT TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commissioner of the Coast Guard shall report directly to the Secretary without being required to report through any other official of the Department.

(7) OPERATIONS 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.

(f) CONTINUATION OF CERTAIN FUNCTIONS OF THE CUSTOMS SERVICE.—

(1) IN GENERAL.—

(A) PRESERVATION OF CUSTOMS FUNDS.—Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(i) in paragraph (1), by striking subparagraph (C) and inserting the following:

‘‘(C) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).’’;

(ii) in paragraph (4) (other than the excess fees determined by the Secretary under paragraph (5)); and

(iii) by striking paragraph (5) and inserting the following:

‘‘(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the ‘Customs Commercial and Homeland Security Automation Account’. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(2)(A), $350,000,000.

‘‘(B) There is authorized to be appropriated from the Customs Commercial and Homeland Security Automation Account for each of fiscal years 2003, 2004, and 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are reserved until available until expended.

‘‘(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Customs Commercial and Homeland Security Automation Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.’’

(B) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—Section 9503(c) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 19 U.S.C. 2071 note) is amended—

(A) in paragraph (1), by inserting ‘‘in consultation with the Secretary of Homeland Security’’ after ‘‘Secretary of the Treasury’’;

(B) in paragraph (2)(A), by inserting ‘‘in consultation with the Secretary of Homeland Security’’ after ‘‘Secretary of the Treasury’’;

(C) in paragraph (3)(A), by inserting ‘‘and the Secretary of Homeland Security’’ after ‘‘Secretary of the Treasury’’; and

(D) in paragraph (4)–

(i) by inserting ‘‘and the Under Secretary of Homeland Security for Border and Transportation’’ after ‘‘Enforcement’’; and

(ii) by inserting ‘‘jointly’’ after ‘‘shall preside’’.

(3) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107-210) is amended by striking paragraph (2)(A).

SEC. 132. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established 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) SUPPORT TO DIRECTORATE.—The Director of Intelligence shall communicate, coordinate, and cooperate with—
(i) the Federal Bureau of Investigation;
(ii) the Central Intelligence Community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Geospatial-Intelligence Agency, the Bureau of Intelligence and Research of the Department of State; and
(iii) cyber原來ular entities, including those within the Department, as determined by the Secretary.
(C) INFORMATION ON INTERNATIONAL TERRORISM.—
(1) DEFINITIONS.—In this subparagraph, the terms “foreign intelligence” and “counterintelligence” shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).
(2) PROVISION OF INFORMATION TO COUNTERTERRORIST CENTER.—In order to ensure that the Secretary is provided with appropriate analytical products, assessments, and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community with respect to foreign intelligence and counterintelligence), the Attorney General, and the heads of other agencies of the Federal Government shall ensure that all intelligence and other information relating to international terrorism is provided to the Director of Central Intelligence’s Counterterrorist Center.
(3) ANALYSIS OF FOREIGN INFORMATION.—The Counterterrorist Center shall have primary responsibility for the analysis of foreign intelligence relating to international terrorism.
(4) 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.
(b) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:
(1)(A) Receiving and analyzing law enforcement and other information from agencies of the United States Government, State and local government agencies (including law enforcement agencies), and private sector entities, and fusing such information and analyses with analytical products, assessments, and warnings concerning foreign intelligence from the Director of Central Intelligence’s Counterterrorist Center in order to—
(i) determine the nature and scope of threats to the homeland; and
(ii) detect and identify threats of terrorism against the United States and other threats to homeland security.
(B) Nothing in this paragraph shall be construed to prohibit the Directorate from conducting supplemental analysis of foreign intelligence relating to threats of terrorism against the United States and other threats to homeland security.
(2) Ensuring timely and efficient access by the Director of Intelligence to—
(A) information from agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, private sector entities; and
B) open source information.
(3) Representing the Department in procedures to establish requirements and priorities in the collection of national intelligence for purposes of the provision to the President of the National Intelligence Priorities Statement under section 101 of the National Security Act of 1947 (50 U.S.C. 403-3) of national intelligence relating to foreign terrorist threats to the homeland.
(4) Consulting with the Attorney General or the designees of the Attorney General, and other officials of the United States Government to establish overall collection priorities for information including law enforcement information, relating to domestic threats, such as terrorism, to the homeland.
(5) Disseminating information to the Director of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism against the United States and other threats to homeland security.
(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department and the appropriate officers of the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, and advanced analytical tools, to carry out the mission of the Directorate.
(7) Directing, in conjunction with the Chief Information Officer of the Department and appropriate officers of the agencies described under subsection (a)(1)(B), the sharing of any information, including information and data, within the United States Government, including the sharing of any information with the Counterterrorist Center.
(8) Representing the Department to Congress, to the Secretary of Defense, and to other United States Government agencies, as described under subsection (a)(1)(B), with respect to matters relating to the acquisition, development, and deployment of intelligence capabilities, the receipt of funded intelligence activities, and the intelligence activities of other agencies.
(9) Fostering, in consultation with the Federal Bureau of Investigation, and in coordination with the Director of Central Intelligence, the National Intelligence Council, and other appropriate officers of the Department, the development of the President’s Intelligence Priority List and the President’s National Security Decision Directives and, related to such activities, all other intelligence priorities of the President.
(10) Utilizing, in coordination with the Counterterrorist Center of the Office of the Director of National Intelligence, the appropriate teams of the agencies described under subsection (a)(1)(B) to conduct intelligence and surveillance activities concerning threats to the homeland.
(11) Reviewing, analyzing, and making recommendations through the Secretary for improvements in the 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 United States Government and between the United States Government and State and local governments, local law enforcement and intelligence agencies, and private sector entities.
(12) 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.
(13) Performing other related and appropriate duties as assigned by the Secretary.
(c) ACCESS TO INFORMATION.—
(1) IN GENERAL.—Unless otherwise directed by the President, the Secretary shall have access to, and United States Government agencies shall provide, all reports, assessments, analytical information, and information, including unaevaluated intelligence, relating to the plans, intentions, capabilities, and means and methods of terrorist organizations, and to other areas of responsibility as described in this division, that may be collected, possessed, or prepared, by any other United States Government agency.
(2) ADDITIONAL INFORMATION.—As the President may further provide, the Secretary shall receive additional information requested by the Secretary from the agencies described under subsection (a)(1)(B).
(3) OBTAINING INFORMATION.—All information shall be provided to the Secretary consistent with the requirements of section 102(b)(8), unless otherwise determined by the President.
(4) COOPERATIVE ARRANGEMENTS.—The Secretary may enter into cooperative arrangements with agencies described under subsection (a)(1)(B) to share material on a regular or routine basis, including arrangements involving broad categories of material, and regardless of whether the Secretary has entered into any such cooperative arrangement, all agencies described under subsection (a)(1)(B) shall have the authority to provide information under this subsection.
(d) AUTHORIZATION TO SHARE LAW ENFORCEMENT INFORMATION.—The Secretary shall be responsible for—
(i) authorizing the sharing of law enforcement, intelligence, protective, national defense, or national security official for purposes of information sharing provisions of—
(1) section 202(a) of the USA PATRIOT Act of 2001 (Public Law 107-56); and
(2) section 2517(6) of title 18, United States Code; and
(3) rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.
(e) ADDITIONAL RISK ANALYSIS AND RISK MANAGEMENT RESPONSIBILITIES.—The Under Secretary for Intelligence and Counterintelligence shall—
(1) develop and implement an integrated risk management and risk assessment program, in coordina-

SEC. 131. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) Establishment.—There is established within the Department of the Directorate of Critical Infrastructure Protection.

(b) Responsibilities.—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Receiving relevant intelligence from the Directorates of Intelligence, law enforcement information, and other intelligence in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant intelligence and vulnerabilities, on threats, vulnerabilities, individual incidents, and privacy issues regarding homeland security.

(3) Acting as the Critical Information Technology Assurance and Security Office of the Department and assuming the responsibilities carried out by the Critical Infrastructure Assurance Office and the National Infrastructure Protection Center before the effective date of this division.

(4) Coordinating the activities of the Information Sharing and Analysis Centers to share information, between the public and private sectors, on threats, vulnerabilities, individual incidents, and privacy issues regarding homeland security.

(5) Managing and updating the Federal response to international bodies and coordinating with appropriate agencies in helping to establish cyber security policy, standards, and enforcement measures.

(6) Establishing the necessary organizational structure within the Department to provide leadership on both cyber security and physical security, and ensuring the maintenance of a nucleus of cyber security and physical security experts within the United States Government.

(7) Performing other duties as directed by the Secretary.

This section shall be interpreted to carry out the functions of the Office of Emergency Preparedness.

(b) Transfer of Authorities, Functions, Personnel, and Assets to the Department.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department.

(2) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Analysis Unit).

(3) The National Communications System of the Department of Defense.

(4) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.


SEC. 132. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) Establishment.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(b) Responsibilities.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Assuming the responsibilities carried out by the National Domestic Preparedness Office before the effective date of this division.

(3) Organizing and training local entities to respond to emergencies and providing State and local authorities with equipment for detection, protection, and decontamination in an emergency involving weapons of mass destruction.

(4) Overseeing Federal, State, and local emergency preparedness training and exercise programs in keeping with intelligence estimates and coordinating Federal assistance for any emergency, including emergencies caused by natural disasters, man-made accidents, human or agricultural health emergencies, or terrorist attacks.

(5) Creating a National Crisis Action Center to act as the focal point for:

(A) Monitoring emergencies;

(B) Notifying affected agencies and State and local governments;

(C) Coordinating Federal support for State and local governments and the private sector in crises.

(6) Managing and updating the Federal emergency response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(7) Coordinating activities among private sector entities, including entities within the medical, pharmaceutical, and agricultural industries, with respect to recovery, consequence management, and planning for continuity of services.

(8) Developing and coordinating a single response system for national incidents in coordination with all appropriate agencies.

(9) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(10) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(5).

(11) Collaborating with the Under Secretary for Science and Technology, the Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of critical infrastructure and key resources, including the functions described in subsection (c)(6)(B).

(c) Transfer of Authorities, Functions, Personnel, and Assets to the Department.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department.

(2) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.

(3) The National Infrastructure Simulation and Analysis Center of the Department of Energy.

(4) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.


(1) Developing a plan to address the interface of medical informatics and the medical response to terrorism that addresses—
(A) standards for interoperability;
(B) measures for data collection;
(C) ease of use for health care providers;
(D) epidemiological surveillance of disease outbreaks in human health and agriculture;
(E) integration of telemedicine networks and standards;
(F) patient confidentiality; and
(G) other topics pertinent to the mission of the Department.
(12) Activating and coordinating the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).
(14) Assisting and supporting the Secretary, in coordination with other Directors and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.
(15) Performing such other duties as assigned by the Secretary.
(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT—
(A) The Secretary, in collaboration with the Secretary of Health and Human Services, including all functions and assets under subparagraph (6)(A), shall provide to the Department by—
(i) the functions of the Select Agent Regulations,
(ii) activities described in subparagraph (6)(A),
(iii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C.  801).
(B) In promulgating regulations pursuant to this subparagraph, the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.
(d) APPOINTMENT AS UNDER SECRETARY AND DIRECTOR—
(1) IN GENERAL.—An individual may serve as both the Under Secretary for Emergency Preparedness and Response and the Director of the Federal Emergency Management Agency if appointed by the President, by and with the advice and consent of the Senate, to each office.
(2) PAY.—Nothing in paragraph (1) shall be construed to authorize an individual appointed to both positions to receive pay at a rate of pay in excess of the rate of pay payable for the position to which the higher rate of pay applies.
(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of governmental and nongovernmental medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.
(a) PURPOSE.—The purpose of this section is to establish a Directorate of Science and Technology that will support the mission of the Department and the directorates of the Department by—
(1) establishing, funding, managing, and supporting research, development, demonstration, testing, and evaluation activities to meet national homeland security needs and objectives;
(2) setting national research and development goals and priorities pursuant to the mission of the Department, and developing strategies and policies in furtherance of such goals and priorities;
(3) coordinating and collaborating with other Federal departments and agencies, and State, local, and private sector entities, to advance the research and development agenda of the Department;
(4) advising the Secretary on all scientific and technical matters relevant to homeland security; and
(5) facilitating the transfer and deployment of technologies that will serve to enhance homeland security goals.
(b) CHARGES.—In this section:
(1) COUNCIL.—The term “Council” means the Homeland Security Science and Technology Council established under this section.
(2) FUND.—The term “Fund” means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.
(3) HOMELAND SECURITY RESEARCH AND DEVELOPMENT.—The term “ homeland security research and development” means research and development applicable to the detection of, prevention of, protection against, response to, and recovery from homeland security threats, particularly acts of terrorism.
(4) OTHER—(A) The term “OSTP” means the Office of Science and Technology Policy.
(B) The term “SARPA” means the Security Advanced Research Projects Agency established under section 107 of the Act (42 U.S.C. 8205).
(C) The term “technology roadmap” means a plan or framework in which goals, priorities, and milestones for desired future technological capabilities and functions are established, and research and development alternatives for achieving such priorities and milestones are identified and analyzed in order to guide decisions on resource allocation and investments.
(d) DIRECTOR.—The term “Under Secretary” means the Under Secretary for Science and Technology.
(e) DIRECTORATE OF SCIENCE AND TECHNOLOGY.—
(1) ESTABLISHMENT.—There is established a Directorate of Science and Technology within the Department.
(2) 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.

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sponsored research agreements with the Department of Energy regarding the use of the national laboratories or sites.

(K) Assisting and supporting the Secretary in coordination with other Department of Defense entities and agencies outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the missions of the Department of Defense.

(L) Carrying out other appropriate activities as directed by the Secretary.

3. RESEARCH AND DEVELOPMENT-RELATED AUTHORITIES.—The Secretary shall exercise the following authorities related to the research, development, testing, and evaluation activities of the Directorate of Science and Technology:

(A) With respect to research and development expenditures under this section, the authority described in subsection (d)(4) for the Fund, not less than 10 percent of such funds for each fiscal year through 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways, and coastal security surveillance and perimeter protection systems, with the purpose of maximizing the capability that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways, and coastal security missions.

(B) The Secretary may carry out human health biodefense-related biological, biomedical, and public health research and development (including vaccine research and development) in collaboration with the Secretary of Health and Human Services. Research supported by funding appropriated to the National Institutes of Health for bioterrorism research and related facilities development shall be conducted through the National Institutes of Health under joint strategic prioritization agreements between the Secretary and the Secretary of Health and Human Services. The Secretary shall have the authority to enter into those agreements, to rapidly develop homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities.

(C) The Secretary shall convene the Security Advanced Research Projects Agency in developing the technology roadmap referred to in section (c)(2)(B); and

(D) perform other appropriate activities as directed by the Under Secretary.

4. ADVISORY PANEL.—The Under Secretary may establish an advisory panel consisting of representatives from industry, academia, and other non-Federal entities to advise and support the Council.

5. WORKING GROUPS.—(A) The Secretary shall establish working groups in specific homeland security areas consisting of individuals with relevant expertise in each articulated area. Working groups established for bioterrorism and public health-related research shall be fully coordinated with the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188).

(B) The Director of SARPA and other appropriate officials representing agencies engaged in research and development relevant to homeland security and combating terrorism shall carry out research and development priorities for which representatives of the respective agency with the advice and consent of the Under Secretary shall be appointed by the head of the representative's respective agency to provide technical and interseretary coordination.

(3) RESPONSIBILITIES.—The Council shall—

(A) provide the Under Secretary with recommendations on priorities and strategies, including those related to portfolio management, for homeland security research and development;

(B) facilitate effective coordination and communication among agencies, other entities of the Federal Government, and entities in the private sector and academia, with respect to the conduct of research and development related to homeland security;

(C) recommend specific technology areas for which the Fund and other research and development resources shall be used, among other things, to enhance homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities.

(D) The Under Secretary may, in consultation with the Secretary of Health and Human Services, appoint representatives to the Council to serve in specific research areas.

(E) The Council shall—

(A) establish an Advisory Panel, composed of the following:

(i) the Director of SARPA;

(ii) the Assistant Secretary for Intelligence and Counterintelligence;

(iii) representatives of the existing Federal agencies; and

(iv) the Under Secretary of the Homeland Security;

the Council shall prescribe the advisory panel composition.

(B) The Council shall—

(i) establish a program to support research and development of technologies relevant to homeland security;

(ii) provide recommendations to the Under Secretary on the development of homeland security research and development priorities, which shall be embodied in the joint strategic prioritization agreements with the Secretary of Health and Human Services.

(C) The Director of the National Institutes of Health for bioterrorism research and related facilities development shall, in consultation with the Secretary of Health and Human Services, shall establish a program to support research and development of technologies relevant to homeland security.
(1) **Establishment.**—There is established an Office of Risk Analysis and Assessment within the Directorate of Science and Technology.

(2) **Functions.**—The Office of Risk Analysis and Assessment shall assist the Secretary, the Under Secretary, and other Directorates with respect to their risk analysis and risk management needs 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 thereof;

(C) pinpointing of vulnerabilities or linked vulnerabilities to these threats;

(D) determination of criticality of possible threat scenarios;

(E) analysis of possible technologies, research, and protocols to mitigate or eliminate threats, vulnerabilities, and criticality;

(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 coordinate, on behalf of the Department of Energy, activities performed by other entities, work involving modeling, statistical analyses, field tests and exercises (including red teaming), testbed development, deployment of standards and metrics.

(4) **Office for Technology Evaluation and Transition.**

(1) **Establishment.**—There is established an Office for Technology Evaluation and Transition within the Directorate of Science and Technology.

(2) **Function.**—The Office for Technology Evaluation and Transition shall, with respect to technologies relevant to homeland security needs:

(A) serve as the principal, national point-of-contact and clearinghouse for receiving and processing proposals or inquiries regarding such technologies;

(B) identify and evaluate promising new technologies;

(C) undertake testing and evaluation of, and planning in transitioning, such technologies into deployable, fielded systems;

(D) consult with and advise agencies regarding the development, acquisition, and deployment of such technologies;

(E) coordinate with SARPA to accelerate the transition of technologies developed by SARPA and ensure transition paths for such technologies; and

(F) perform other appropriate activities as directed by the Under Secretary.

(3) **Technical Support Working Group.**—The functions described under this subsection may be carried out through, or in cooperation with, or through an entity established by the Under Secretary, the Technical Support Working Group (organized under the April 1982, National Security Decision Directive Numbered 38) that provides an interagency forum to coordinate research and development of technologies for combating terrorism.

(1) **Office of Laboratory Research.**—There is established an Office of Laboratory Research within the Directorate of Science and Technology.

(2) **Research and Development Functions Transferred.**—Such functions shall be transferred from federally the Department, to be administered by the Under Secretary, the functions, personnel, assets, and liabilities of the following programs:

(A) within the Department of Energy (but not including programs and activities relating to the strategic nuclear defense posture of the United States) the following:

(i) The chemical and biological national security and support programs and activities associated with the non-proliferation and verification research and development program.

(ii) The nuclear smuggling programs and activities under the Department of Energy, and nuclear threat detection activities directly related to homeland security, within the proliferation detection program of the nonproliferation and verification research and development program.

(iii) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(iv) The Environmental Measurements Laboratory.

(B) within the Department of Defense, the National Bio-Weapons Defense Analysis Center established under section 209 of the Defense Authorization Act for Fiscal Year 2009 (P.L. 111-87).

(C) within the National Bio-defense Advanced Research Initiative Act of 2004 (P.L. 108-324).

(D) within the World Health Organization, the World Health Organization Laboratory Network.

(E) within the Department of Energy, the National Bio-Weapons Defense Analysis Center established under section 161.

(F) and other appropriate activities as directed by the Secretary of Energy and the Under Secretary.

(3) **Cooperative Arrangements.**

(4) **Technology Transfer.**—The Office for National Laboratories may enter into other arrangements with Department of Energy national laboratories or sites to carry out work to support the missions of the Department of Energy national laboratories or sites to carry out work to support the missions of the Department of Energy.

(5) **Assistance in Establishing Department of Energy National Laboratories.**

(1) **Establishment.**—the Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department of Energy.

(2) **Joint Sponsorship Arrangements.**—There is established within the Department of Energy a Joint Sponsorship Arrangement with the Department of Energy and a Department of Energy national laboratory or site under this section the Secretary may enter into cooperation program of the international materials protection and cooperation program.

(3) **Other Arrangements.**—The Office for National Laboratories may enter into cooperative research and development arrangements with the Department of Energy national laboratories or sites to carry out work to support the missions of the Department of Energy.

(4) **Technology Transfer.**—The Office for National Laboratories may enter into arrangements with the Department of Energy national laboratories or sites to carry out work to support the missions of the Department of Energy.

(5) **Assistance in Establishing Department of Energy National Laboratories.**

(1) **Establishment.**—the Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department of Energy.

(2) **Joint Sponsorship Arrangements.**—There is established a joint sponsorship arrangement with the Secretary and a Department of Energy national laboratory or site under this section the Secretary may enter into cooperative research and development arrangements with the Department of Energy.

(3) **Other Arrangements.**—The Office for National Laboratories may enter into arrangements with the Department of Energy national laboratories or sites to carry out work to support the missions of the Department of Energy.

(4) **Technology Transfer.**—The Office for National Laboratories may enter into arrangements with the Department of Energy national laboratories or sites to carry out work to support the missions of the Department of Energy.

(5) **Assistance in Establishing Department of Energy National Laboratories.**

(1) **Establishment.**—the Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department of Energy.

(2) **Joint Sponsorship Arrangements.**—There is established a joint sponsorship arrangement with the Secretary and a Department of Energy national laboratory or site under this section the Secretary may enter into cooperative research and development arrangements with the Department of Energy.

(3) **Other Arrangements.**—The Office for National Laboratories may enter into arrangements with the Department of Energy national laboratories or sites to carry out work to support the missions of the Department of Energy.

(4) **Technology Transfer.**—The Office for National Laboratories may enter into arrangements with the Department of Energy national laboratories or sites to carry out work to support the missions of the Department of Energy.
SECTION 136. DIRECTORATE OF IMMIGRATION AFFAIRS

The Directorate of Immigration Affairs shall be established to carry out such functions of that Directorate in accordance with division B of this Act.

SECTION 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION

(a) ESTABLISHER.—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 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 Departmental programs within each State and between the States.

(c) HOMELAND SECURITY LIABILITY OFFICER.

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to be Homeland Security Liability Officers in that State or District.

(2) DUTIES.—Each Homeland Security Liability 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 issues;

(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 a process to identify and coordinate homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement; and

(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; and

(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; and

(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; and

(J) representatives of any other Federal agencies 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 Committee which shall include—

(A) scheduling meetings;

(B) preparing agenda;
(c) FUNCTIONS.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, coordinate the receipt, development, and execution of lines of border security functions from among its members.

(2) allocate funding for the activities of the Working Group.

(3) coordinate joint and cross-training programs for personnel performing border security functions.

(4) monitor, evaluate, and make improvements in the coverage and geographic distribution of border security programs and personnel.

(5) develop and implement technologies that ensure the safety, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced scrutiny for high-risk traffic, travel, and commerce.

(6) coordinate with Federal agencies in the National Capital Region to facilitate access to Federal grants and other programs.

SECTION 146. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) Establishment.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office for the 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.

(c) FUNCTIONS.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officials 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 to ensure the national security, safety, and economic prosperity of the District of Columbia, Maryland, and Virginia.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the functions of State and local agencies.

SECTION 147. PREPAREDNESS INFORMATION AND EDUCATION.

(a) Establishment of Clearinghouse.—There is established in the Department of Homeland Security a one-stop center for emergency preparedness (referred to in this section as the “Clearinghouse”). The Clearinghouse shall be headed by a Director.

(b) Duties.—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 a homeland security strategy.

(c) Information.—The Clearinghouse shall ensure that 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 a homeland security strategy.

(d) Information.—The Clearinghouse shall ensure that 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 a homeland security strategy.
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 using biological or chemical weapons that are weapons of mass destruction (as defined under section 1663 of the Defense Against Weapons of Mass Destruction Act of 1986 (10 U.S.C. 2302(i))) and conduct research and analysis concerning such weapons.

SEC. 162. REVIEW OF FOOD SAFETY.

(a) 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 relating to 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 organization to protect 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) CONTENT.—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 efficiency and effectiveness 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) REQUIREMENT.—Notwithstanding any other provision of law, 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 efficiency and effectiveness 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.

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 from one position at an airport learn from one another and resolve complex issues;

(3) Federal, State, and local employees have specialized knowledge that should be consistent and consistent 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 of Homeland Security, Federal, State, and local agencies in accordance with chapter VI of title 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 or sensitive information.

SEC. 164. WHISTLEBLOWER PROTECTION FOR AIRPORT SECURITY SCREENERS.

(a) DEFINITION.—In this section, the term “security screener” means—

(1) an individual who is employed by a Federal airport employee who hired the individual to serve as a security screener under section 16(b)(6) of title 5, United States Code; or

(2) an individual who is employed under the authority of the head of a Federal department or agency to serve as a security screener under section 16(b)(6) of title 5, United States Code.

(b) APPLICABLE EMLOYEES.—Part II (subpart II) of title 5, United States Code, shall apply with respect to a security screener to the extent to which such title or such subpart applies to an airport.

(c) PROTECTION.—The President shall ensure that—

(1) the provisions described in paragraph (1) of section 16(b)(6) of title 5, United States Code, shall apply with respect to an airport

(2) the purposes and requirements of the provisions described in paragraph (2), (3), and (4) of subsection (a) of section 16(b)(6) of title 5, United States Code, shall apply with respect to an airport.

(3) the provisions described in paragraph (5) of subsection (a) of section 16(b)(6) of title 5, United States Code, shall apply with respect to an airport.

(4) the provisions described in paragraph (6) of subsection (a) of section 16(b)(6) of title 5, United States Code, shall apply with respect to an airport.

(d) AUTHORITY.—In this section, the term “airport” means—

(1) an airport located in the United States;

(2) an airport located outside the United States operated by a foreign government, or an airport authority, or a contractor of such government or airport authority;

(3) any governmental facility connected to an airport described in paragraph (1); and

(4) any governmental facility connected to an airport described in paragraph (2).

(e) PROTECTION.—The President shall ensure that any individual employed as a security screener under section 16(b) of title 5, United States Code, shall be protected from discrimination on the basis of—

(f) AUTHORIZATION.—In this section, the term “Chief” means—

(1) the head of the Department; or

(2) the Secretary of Homeland Security.

(3) in section 16(b)(6) of title 5, United States Code, shall apply with respect to an airport security screener.
SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 247d) 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 coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, if so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.
"(B) To coordinate and facilitate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism.
"(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.
"(D) 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.

(D) 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.

(G) STAFFING.—Under agreements reached between the Secretary of Health and Human Services, the Secretary of the Treasury, the Federal Bureau of Investigation, and the Secretary of Homeland Security, the Division shall—

(a) maintain a full-time staff, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

(b) assign one or more 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 sections 102(b)(14) and 134(b)(7) shall be consistent with section 319D of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELIEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 318(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 318(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.

(b) To coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, if 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.

(d) 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.

(D) 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.

(E) STAFFING.—Under agreements reached between the Secretary of Health and Human Services, the Secretary of the Treasury, the Federal Bureau of Investigation, and the Secretary of Homeland Security, the Division shall—

(a) maintain a full-time staff, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

(b) assign one or more 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 sections 102(b)(14) and 134(b)(7) shall be consistent with section 319D of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELIEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 318(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 318(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 1913; 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.


(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 considered to be Federal assistance for purposes of section 3 of the Fair Labor Standards Act of 1974 (15 U.S.C. 2229).

(2) MAXIMUM AMOUNT.—Notwithstanding subsection (b), 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.

(3) FEDERAL SHARE.—A grant shall be made in an amount equal to 75 percent of the amount of the grant.

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY PROGRAMS.—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, including, to the extent possible, the cost of implementing the steps.

(b) 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 later than 90 days after the date on which the report under this section is submitted to the Congress, 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 PROVISONAL.—In furnishing the report required by subsection (b), the Secretary’s response and recommendations under subsection (c)(1), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

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—
SEC. 173. CONFORMING AMENDMENTS REGARDING LAW ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended by striking “Secretary of Homeland Security” in each of the following provisions:

(A) Section 101(25)(D).

(B) Section 101(26).

(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 3018C(a)(5).

(J) Section 3018C(a)(6).

(K) Section 3020(m)(4).

(L) Section 3036(d).

(M) Section 6105(c).

(b) DEPARTMENT OF HOMELAND SECURITY AS EXECUTIVE DEPARTMENT OF COAST GUARD.—Title 38, United States Code, is amended by adding after subsection (a), and inserting “Department of Homeland Security” in each of the following provisions:

(A) Section 1508(a).

(B) Section 1508(b).

(C) Section 3035(c).

(D) Section 3035(d).

(E) Section 3035(e)(1)(C).

(F) Section 3035(e)(2)(C).

(G) BUREAUD OF NATIONAL MUNICIPAL REVENUE, SECturary of Veterans Affairs when it is not operating as the Coast Guard.

(h) CONSULTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall ensure the 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 affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan referred to in subsection (a).

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security and those of State and local agencies with responsibility for homeland security shall, coordinate, oversee, and manage the acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the comprehensive enterprise architecture and plan referred to in subsection (a).

(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 provide the Director of Management and Budget with information technology and 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), as necessary.

(2) 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).

Sec. 174. PROHIBITION ON CONTRACTS WITH FOREIGN CORPORATIONS.”

(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 section (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be 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 stock 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 corporation;

(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.

(3) the expanded affiliated group which actually holds the inverted domestic corporation does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized 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)—

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b) stock owned by—

(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 acquire directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date on which it was fully cooperative with the Director of the Office of Management and Budget whose primary responsibility is to ensure interoperability consistent with the comprehensive enterprise architecture and plan referred to in subsection (a), and in a transaction if the President certifies to Congress that the waiver is required in the interest of national security.

(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.
SEC. 175. 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. 151 et seq.);

(2) title III of the Federal Seed Act (7 U.S.C. 1516 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 ‘‘BEARFOOT MAMMALS’’ in the Act of March 4, 1913 (commonly known as the ‘‘Virus-Scrum-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); and

(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 activities 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 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 Secretary of Homeland Security 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 Homeland Security 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)) is amended—

(i) in subsection (a)—

(I) by inserting ‘‘or the Department of Homeland Security’’ after ‘‘Department 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 ‘‘301’’ 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. 176. COORDINATION OF INFORMATION AND 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.

Subtitle E—Transition Provisions

SEC. 181. DEFINITIONS.

In this subtitle:

(1) Agency.—The term ‘‘agency’’ includes an entity, organizational unit, or function transferred or to be transferred under this title.

(2) Transition period.—The term ‘‘transition period’’ means the 18-month period beginning on the effective date of this division.

SEC. 182. TRANSFER OF AGENCIES.

The transfer of an agency to the Department of Homeland Security is authorized by the President when the President so directs, but in no event later than the end of the transition period.

SEC. 183. TRANSITIONAL AUTHORITIES.

(a) Provision of assistance by officials.—Until an agency is transferred to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this division shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may reasonably request in preparing for the transfer and integration of the agency into the Department.

(b) Services and personnel.—During the transition period, upon the request of the Secretary, the head of any agency (as defined under section 2) may, on a reimbursable basis, provide services and detail personnel to assist with the transition.

(c) Acting officials.—

(1) Designation.—During the transition period, pending the nomination and advice and consent of the Senate to the appointment of an officer required by this division to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent, and who continues as such an officer, to act in such office until the office is filled as provided in this division.

(2) Compensation.—While serving as an acting official under paragraph (1), the officer
shall receive compensation at the higher of the rates provided:

(A) under this division for the office in which that officer acts; or

(B) at the time held at the time of designation.

(3) Period of service.—The person serving as an acting officer under paragraph (1) may serve in the office during the period described under section 3316 of title 5, United States Code, as if the office became vacant on the effective date of this division.

(d) Advice and Consent Requirement.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President of any position in the Department of any—

(1) whose agency is transferred to the Department under this Act;

(2) whose appointment was by and with the advice and consent of the Senate;

(3) who is proposed to serve in a directorate or office of the Department that is similar to the transferred agency in which the officer served; and

(4) whose authority and responsibilities following such transfer would be equivalent to those of the transferred agency that transferred the Executive Office of Immigration Review of the Department of Justice under this Act.

SEC. 185. IMPLEMENTATION PROGRESS REPORTS AND LEGISLATIVE RECOMMENDATIONS.

(a) In General.—The Secretary of the Department of Justice, in consultation with the appropriate committees of Congress, shall prepare an implementation progress report in accordance with the following:

(i) an assessment of the existing and planned information systems of the Department; and

(ii) a report on the development and implementation of enterprise architectures and of the plan to achieve interoperability; and

(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 in order for the Department to function effectively; and

(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.

The Secretary shall submit the first implementation progress 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 section 184, 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.

(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) a description of the transfer and incorporation of entities, organizational units, and functions into the Department;

(ii) a description of the transfer and incorporation of entities, organizational units, and functions into the Department; and

(iii) a report on the development and implementation of the Department; and

(iv) an assessment of the existing and planned information systems of the Department; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibilities, among employees within the Department to achieve the human capital needs of the Department; and

(vi) unexpended funds and assets, liabilities, and personnel that will be transferred, and the proposal for the disposition 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; and

(ii) a report on the development and implementation of the Department; and

(iii) plans or progress reports on the utilization by the Department of existing personnel flexibility, provided by law or through the appropriate offices of theDepartment 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 of agencies, functions, and personnel previously covered by disparate personnel systems; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibility, provided by law or through the appropriate offices of the Department of Personnel Management, to achieve the human capital needs of the Department; and

(vi) unexpended funds and assets, liabilities, and personnel that will be transferred, and the proposal for the disposition and disposition within the Department; and

(vii) the costs of implementing the transition; and

(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 architectures and of the plan to achieve interoperability; and

(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 in order for the Department to function effectively; and

(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.

The final implementation progress report shall include any required information not yet provided.

(b) Judicial or Review Functions.—

(i) In General.—At the time an agency is transferred to the Department before such transfer shall include the transfer to the Secretary of any function relating to such agency that, on the date before the transfer, was exercised by the head of the department from which such agency is transferred.

(ii) Separation.—Any action taken by an agency transferred under this subsection shall not affect the jurisdiction of the agency or the authority of the Secretary to make such determination.

(iii) Judicial Authority.—The Secretary may submit the implementation progress report to Congress before submitting the balance of the report under this section.

SEC. 186. TRANSFER AND ALLOCATION.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, and 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, and not in effect, or (

(2) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, and not in effect, or (C) with respect to information technology—
(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; and

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 such provisions.

(c) No Effect on Intelligence Authori-
ties, Agencies, or Personnel.—Any ap-
pointment to the position made after such transfer to the Department has occurred.

(3) Whistleblower Protection.—The President may provide for any function 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 function is transferred to that authority was not made before the date of enactment of this Act.

(g) No Effect on Intelligence Authori-
ties, Agencies, or Personnel.—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.

SEC. 189. USE OF APPROPRIATED FUNDS.

(a) Use of Appropriations in General.—Except as may be provided in this Act, no new appropriation to the Department under this Act shall be available only for the purposes specified in such appropriations Act.

(b) Use of Appropriations for Transition.—(1) In General.—The President shall submit to Congress a transition plan as set forth in paragraph (2).

(2) Contents.—The transition plan shall include—

(A) a detailed description of any new positions or functions established by this Act, and the dates such new positions or functions are to become effective; and

(B) a description of any functions transferred to the Department by this Act, and any functions transferred to the Department under this Act that are not otherwise made available to the Department.

(c) Use of Appropriated Funds.—(1) In General.—Except as may be provided in this Act, no new appropriation to the Department under this Act shall be available only for the purposes specified in such appropriations Act.

(2) Use of Appropriated Funds.—The uses of appropriated funds by the Department shall be consistent with the purposes specified in such appropriations Act.

(3) Use of Appropriated Funds.—The President 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.

SEC. 190. TRANSFER OF FUNDS.

(a) Use of Appropriated Funds.—(1) In General.—Except as may be provided in this Act, no new appropriation to the Department under this Act shall be available only for the purposes specified in such appropriations Act.

(b) Use of Appropriated Funds.—The uses of appropriated funds by the Department shall be consistent with the purposes specified in such appropriations Act.

(c) Use of Appropriated Funds.—The President 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.

SEC. 191. REORGANIZATIONS AND DELEGATIONS.

(a) Delegation of Authority.—The President 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.
III, and XI, develop definitions of the terms department or agency affected by titles I, II, and XI, and 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 of the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) PROHIBITION OF 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. 193. RESPONSIBILITY REQUIREMENTS.

(a) ANNUAL EVALUATIONS.—The Comptroller General of the United States shall monitor and evaluate the implementation of this title, including 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) BIMONTHIAL REPORTS.—Every 2 years the Secretary shall report to Congress on the findings of the Comptroller General under section 185.

(1) a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues;

(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) COMBATING TERRORISM AND BORDER SECURITY.—Not later than 270 days after the date of enactment of this Act, the Secretary

(1) in consultation with the head of each department or agency affected by titles I, II, III, and XI, develop definitions of the terms ‘‘combating terrorism’’ and ‘‘homeland security’’ for purposes of those titles and shall consider such definitions in determining the mission of the Department; and

(2) submit a report to Congress on such definitions.

(e) RESULTS-BASED MANAGEMENT.—

(1) STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than September 30, 2003, consistent with the requirements of section 306 of title 5, United States Code, the Secretary shall prepare and submit to the Comptroller General 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.

(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 results.

(C) SCOPE.—The performance plan shall describe the planned results for the homeland security related activities of the Department.

(3) PERFORMANCE REPORT.—

(A) IN GENERAL.—In accordance with section 1115 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.

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 shall be employed in accordance with the labor standards authorized under this Act as modified by the Davis-Bacon Act (40 U.S.C. 276a et seq.).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall enforce the labor standards authorized under this Act, as modified by the Davis-Bacon Act, in accordance with the Reorganization Plan Number 1 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. PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.

The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) from the Department or an agency of the United States, and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 196. PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(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 report.

(b) CONTENTS.—The Future Years Homeland Security Program report shall be accompanied by a Future Years Homeland Security Program report submitted to Congress by the Secretary of Homeland Security under subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SEC. 197. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget report submitted to Congress for the Department under section 1105 of title 31, United States Code, and the budget request submitted to Congress for the National Terrorism Prevention and Response Program shall be accompanied by a Future Years Homeland Security Program report.

(b) CONTENTS.—The Future Years Homeland Security Program report shall be accompanied by a Future Years Homeland Security Program report submitted to Congress by the Secretary of Homeland Security under subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2006 budget request submitted to Congress for the National Terrorism Prevention and Response Program, and for any subsequent fiscal year.
(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 penalties or rates), 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 shall provide the record to the requesting agency if—

(i) the record is designated and certified by the provider as confidential and not customarily made available to the public; and

(ii) 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.

(B) DISCLOSURE OF INDEPENDENTLY FURNISHED DOCUMENTS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, for the record—

(i) not made available to the public; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SHARABLE PORTION OF RECORD.—Any reasonably segregable portion of a record that is furnished voluntarily to the Department 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 DOCUMENTS.—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 shall be provided with the record after the notification to the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe such procedures as—

(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 to preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receiving independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Department of Homeland Security shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section.

(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;

(C) any other information the Secretary considers to be necessary.

(ii) give any recommendations received to the Department of Homeland Security, the Committees on the Judiciary, and the Committees of Congress specified in this paragraph;

(iii) give any recommendations received to the Department of Homeland Security, the Committees on the Judiciary, and the Committees of Congress specified in this paragraph;

(iv) give any recommendations received to the Department of Homeland Security, the Committees on the Judiciary, and the Committees of Congress specified in this paragraph; and

(v) give any recommendations received to the Department of Homeland Security, the Committees on the Judiciary, and the Committees of Congress specified in this paragraph.

(h) REPORT.—The Secretary shall provide a report on the implementation and use of this section to the Committees of Congress specified in paragraph (2) not later than 18 months after the date of the enactment of this Act.

(i) CERTIFICATION.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 199. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees and persons who are required to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should provide benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—

(A) NOTICE OF PROPOSAL.—The Secretary shall provide notice under section 5307 of this title in a year; or

(B) any other provision of law referred to in any section of this Act;

(C) any provision of law referred to in any section of this Act;

(D) any other provision of law referred to in any section of this Act.

(ii) any provision of law implementing any other provision of law referred to in any section of this Act.

(iii) any provision of law implementing any other provision of law referred to in any section of this Act.

(iv) any provision of law implementing any other provision of law referred to in any section of this Act.

(v) any provision of law implementing any other provision of law referred to in any section of this Act.

(b) EFFECT ON STATE AND LOCAL LAW.

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(ii) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(iii) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(iv) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(v) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(vi) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(vii) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(viii) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(ix) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(x) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xi) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xii) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xiii) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xiv) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xv) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xvi) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xvii) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xviii) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xix) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(xx) giving any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

(2) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

(A) be flexible;

(B) be contemporary;

(C) be flexible;

(D) be contemporary;

(E) be flexible;

(F) be contemporary;

(G) be flexible;

(H) be contemporary;

(I) be flexible;

(J) be contemporary;

(K) be flexible;

(L) be contemporary;

(M) be flexible;

(N) be contemporary;

(O) be flexible;

(P) be contemporary;

(Q) be flexible;

(R) be contemporary;

(S) be flexible;

(T) be contemporary;

(U) be flexible;

(V) be contemporary;

(W) be flexible;

(X) be contemporary;

(Y) be flexible;

(Z) be contemporary.
“(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

“(C) CONSULTATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

“(1) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

“(2) give (or otherwise) employee representative adequate access to information to make that participation productive.

“(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure that—

“(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

“(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be determined by the Secretary as consistent with the purposes of the subsection; and

“(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organization or other representatives involved.

“(3) WRITTEN AGREEMENT.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system of representation under this section unless the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

“(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

“(1) SENSE OF CONGRESS.—It is the sense of Congress—

“(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

“(B) in prosecuting regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

“(i) should ensure that employees of the Department are afforded the protections of due process procedures;

“(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

“(2) REQUIREMENTS.—Any regulations under this subsection which relate to any matters within the purview of chapter 77—

“(A) shall be issued only after consultation with the Merit Systems Protection Board;

“(B) shall ensure the availability of procedures which shall—

“(i) be consistent with requirements of due process procedures;

“(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

“(C) procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employment of the Department.

“(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 181 of the Homeland Security Act of 2002, all authority to issue procedures under this section (including regulations which would modify, supersede, or otherwise affect the provisions of chapter 71) shall cease to be available.”.

“(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

“97. Department of Homeland Secu-

rity—9701”.

“(b) EFFECT ON PERSONNEL.

“(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS. Provided that as permanent positions are established and such provisions are otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

“(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person’s date of transfer, was performing such full-time position and was compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without any lapse of time, is transferred in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated at such new position on a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this Act.

“SEC. 199B. AUTHORIZATION OF APPROPRIA-

TIONS.

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 Depart-

ment other than those transferred to the Depart-

ment under this Act.

“TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

“SEC. 201. LAW ENFORCEMENT POWERS OF IN-

SPECTOR GENERAL AGENTS.

“(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amend-

ed by adding at the end the following—

“.”(e) In addition to the authority otherwise

provided by this Act, each Inspector General appointed under section 3, any As-

sistant Inspector General for Investigations of the Attorney General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General—

“(1) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

“(2) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

“(3) search and seize evidence in accordance with the laws of the United States upon probable cause to believe that a violation has been committed.

“(4) (A) The Inspector General, Assistant Inspector General, or any other law enforcement officer of the Inspector General may—

“(i) arrest any person who violates any law of the United States upon probable cause to believe that a violation has been committed.

“(ii) enter any building, room, or place where there is reasonable cause to believe that evidence of a violation of any law of the United States is being concealed.

“(B) Nothing in this subsection limits the power of the Attorney General to require the Inspector General, Assistant Inspector General, or any other law enforcement officer of the Inspector General to comply with any law of the United States otherwise applicable to such officers.

“(5) The Inspector General, Assistant Inspector General, or any other law enforcement officer of the Inspector General may, in connection with any proceeding or investigation—

“(A) serve and execute summons and subpoenas

in any judicial or administrative proceeding or investigation, or

“(B) administer oaths and take depositions or other testimony, or issue and serve warrants for the production of any evidence relevant to the proceedings or investigation.

“(6) The Inspector General, Assistant Inspector General, or any other law enforcement officer of the Inspector General may—

“(A) in any proceeding or investigation, search and seize evidence in accordance with the laws of the United States.

“(B) use any evidence lawfully obtained in any proceeding or investigation.

“(C) make available to a court or grand jury any evidence obtained in any proceeding or investigation.

“(7) The Inspector General, Assistant Inspector General, or any other law enforcement officer of the Inspector General may—

“(A) use any authority vested in the Attorney General by law, including the authority granted by law to the Attorney General to make available to a court or grand jury any evidence obtained in any proceeding or investigation.

“(B) use any other authority vested in the United States Attorney, the United States Attorney for the District of Columbia, the United States Attorney for the District of Colorado, or the United States Attorney for the District of New York by law, including the authority granted by law to the United States Attorney to make available to a court or grand jury any evidence obtained in any proceeding or investigation.
“(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and
“(C) adequate internal safeguards and management structures exist to ensure proper exercise of such powers.
“(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirements of this subsection, to the extent that the exercise of such powers is determined by the Attorney General.
“(4) The Attorney General shall promulgate, publish, and implement appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).
“(5) Powers authorized for an Office of Inspector General under paragraph (1) shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements under subsection (a) is not satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).
“(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.
“(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this Act, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General that receives an authorization under paragraph (2) shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated to the Inspector General and to the Attorney General.
“(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputies .”

(b) authorize such offices to exercise authority that is the same or similar to the authority described in section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) as added by subsection (b) that are applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(MINIMUM REQUIREMENTS.—The guidelines promulgated under section 6(e) shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LACK OF AUTHORITY.—The memorandum of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under the subsection take effect.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

III.—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Military Emergency Procurement Flexibility

SEC. 301. DEFINITION.

In this title, the term ‘‘executive agency’’ has the meaning under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 302. PROCUREMENTS FOR DEFENSE AND NATIONAL SECURITY OPERATIONS AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACKS.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, chemical, biological, or radiological attacks but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of enactment of this Act.

SEC. 303. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 302 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $250,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $500,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term ‘‘simplified acquisition threshold definitions’’ means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253d(4)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 641(j)) shall be applied as if the maximum anticipated value identified thereunder is equal to the amounts referred to in subsection (a).
The head of each executive agency shall conduct a study on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available to perform the tasks of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research to identify new entrants into Federal contracting, including use of commercial databases, to carry out the research.

Title IV—National Commission on Terrorist Attacks Upon the United States

Chapter 1—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. 402. 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, investigate, and report on the evidence developed by all relevant government 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

(C) 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. 403. Composition of the Commission.

(a) Members. The Commission shall be composed of—

(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;

(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) Initial Meeting. The Commission shall meet not later than March 31, 2004, the Comptroller General shall:

(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, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(d) Subpoenas. Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the vice 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 or any member designated by the chairperson, subcommittee chairperson, or member.

(e) Enforcement. In the case of contempt 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, to produce documentary or other evidence, and to answer any questions relating to the contempt of that court.

(f) 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 an action before the proper authority for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under section 901 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) EXCEPTION.—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.

(c) Notice.—The requirements relating to a determination under section 10(d) of that Act shall apply.

(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 division. 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 any support services as they may determine advisable and as may be authorized by law.

(g) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(h) Postal Services.—The Commission may use the United States mails in the same manner and for the same purposes as the department, bureau, agency, board, commission, office, independent establishment, or instrumentality, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 112 of title 5, United States Code.

SEC. 407. COMPENSATION AND TRAVEL EXPENSES.

(a) Compensation.—Each member of the Commission, while engaged 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 112 of title 5, United States Code.

SEC. 408. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall furnish the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing security requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such access under section 2301 of title 5, United States Code.

SEC. 409. REPORTS OF THE COMMISSION; TERMINATION.

(a) Initial Report.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations 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 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) Exception.—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. 410. 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.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This division shall take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS

SEC. 1001. SHORT TITLE.

This title may be cited as the “Immigration Reform, Accountability, and Security Enhancement Act of 2002.”

SEC. 1002. DEFINITIONS.

In this division:

(1) Enforcement Bureau.—The term “Enforcement Bureau” means the Bureau of Enforcement and Border Affairs established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) Function.—The term “function” includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) Immigration Enforcement Functions.—The term “immigration enforcement functions” has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) Immigration Laws of the United States.—The term “immigration laws of the United States” has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) Immigration Policy, Administration, and Inspection Functions.—The term “immigration policy, administration, and inspection functions” has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1108 of this Act.

(6) Immigration Service Functions.—The term “immigration service functions” has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1108 of this Act.

(7) Office.—The term “office” includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) Secretary.—The term “Secretary” means the Secretary of Homeland Security.

(9) Service Bureau.—The term “Service Bureau” means the Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) Under Secretary.—The term “Under Secretary” means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

SEC. 1101. ABOLITION OF INS.

(a) In General.—The Immigration and Naturalization Service is abolished.

(b) Repeal.—Section 4 of the Act of February 5, 1903, as amended (8 U.S.C. 146; relating to the establishment of the Immigration and Naturalization Service), is repealed.
SEC. 110. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) Establishment.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting “CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES” after “TITLE I—GENERAL AUTHORITIES”;

(2) by adding at the end the following:

“CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

“(a) Establishment.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

“(b) Principal Officers.—The principal officers of the Directorate are the following:

“(1) The Under Secretary of Homeland Security for Immigration Affairs appointed under section 112(b).

“(2) The Assistant Secretary of Homeland Security for Immigration Services appointed under section 113.

“(3) The Assistant Secretary of Homeland Security for Enforcement and Border Affairs appointed under section 114.

“(c) Coordinator.—Under the authority of the Secretary of Homeland Security, the Director of Immigration Affairs shall perform the following functions:

“(1) Immigration policy, administration, and inspection functions, as defined in section 112(b).

“(2) Immigration service and adjudication functions, as defined in section 113(b).

“(3) Immigration enforcement functions, as defined in section 114(b).

“(d) Authorization of Appropriations.—

“(1) In general.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

“(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

“(e) Immigration Laws of the United States Defined.—In this chapter, the term ‘immigration laws of the United States’ means the following:

“(1) This Act;

“(2) Such other statutes, Executive orders, regulations, or directives, treaties, or other international agreements to which the United States is a party, insofar as they relate to the admission of, detention in, or removal from the United States of aliens, insofar as they relate to the naturalization of aliens, insofar as they relate to the status of aliens.”.

(b) Conforming Amendments.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

“(33) The term ‘Director’ means the Director of Immigration Affairs established by section 1111;”;

(B) by adding at the end of section 101(a) the following new paragraphs:

“(17) The term ‘Secretary’ means the Secretary of Homeland Security.

“(18) The term ‘Department’ means the Department of Homeland Security.”;

(C) by striking “Attorney General and Department of Justice” each place it appears and inserting “Secretary” and “Department”, respectively.

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking “The” and inserting “Except as otherwise provided in section 1111(e)

(E) by striking “Immigration and Naturalization Service”, “Service”, and “Service’s” each place they appear and inserting “Director of Immigration Affairs”, “Directorate”, “Immigration and Naturalization Service”, “Directorate”, and “Directorate’s”, respectively.

(2) Section 6 of the Act entitled “An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes”, approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking “Immigration and Naturalization Service” and inserting “Directorate of Immigration Affairs”;

(B) by striking clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) References.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 110B. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) Establishment.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

“SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

“(a) Under Secretary of Immigration Affairs.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 108(c) of the Immigration and Nationality Act.

“(b) Responsibilities of the Under Secretary.

“(1) In general.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Department of Homeland Security and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

“(2) Duties.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

“(A) Immigration Policy.—The Under Secretary shall be responsible for immigration policy under the immigration laws of the United States. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy and priorities; and

“(B) Administration.—The Under Secretary shall have responsibility for—

“(i) the administration and enforcement of the functions conferred upon the Directorate under section 111(c) of this Act; and

“(ii) the performance of the duties of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration and Naturalization and the Bureau of Enforcement and Border Affairs.

“(C) Inspections.—The Under Secretary shall be responsible for the administration and enforcement of the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

“(D) Activities.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

“(A) Resources and Personnel Management.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

“(B) Information Resources Management.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains information technology systems to carry out its functions.

“(C) Coordination of Response to Civil Rights Violations.—The Under Secretary shall coordinate with the Civil Rights Officer of the Department of Homeland Security or other officials, as appropriate, the resolution of immigration issues that involve civil rights.”

(d) Duties of the Under Secretary.—(1) In General.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary, to perform the duties of the General Counsel.

“(2) Duties.—The General Counsel shall—

“(A) serve as the chief legal officer for the Directorate; and

“(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

“(3) Financial Officers for the Directorate of Immigration Affairs.—

“(1) Chief Financial Officer.—(A) In General.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 5, United States Code, in relation to the financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

“(B) Duties.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budgetary and execution functions for the Directorate.

“(C) Deputy Chief Financial Officer.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

“(D) Chief of Policy.—(1) In General.—There shall be within the Directorate a Chief of Policy. Under the authority of the Under Secretary, the Chief of Policy shall be responsible for—

“(A) establishing national immigration policy and priorities;

“(B) coordinating immigration policy between the Directorate, the Service Bureau, and the Enforcement Bureau.

“(C) Within the Senior Executive Service.—The position of Chief of Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

“(D) Chief of Congressional, Intergovernmental, and Public Affairs.—(1) In General.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the
authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—
(A) providing to Congress information relating to the visa issues arising under the immigration laws of the United States, including information on specific cases;
(B) serving as a liaison with other Federal agencies on immigration issues; and
(C) responding to inquiries from, and providing information to, the media on immigration issues.
(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5320 of title 5, United States Code.
(b) COMPENSATION OF THE UNDER SECRETARY.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:
"(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility to provide legal advice and assistance to employees concerning disciplinary actions concerning allegations of misconduct or ill treatment made by the public.
(3) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in the case of employees under the Assistant Secretary, and the Assistant Secretary of Homeland Security, in the case of employees under the Assistant Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.
(c) SERVICE BUREAU OFFICES.—(1) IN GENERAL.—Under the direction of the Under Secretary, the Service Bureau shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities or in regions in the United States to serve the population to be served. The Under Secretary shall consider the location’s proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.
(2) TRANSITION PROVISION.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.
(d) CONFIRMING AMENDMENTS.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:
"(8) The term ‘Under Secretary’ means the Under Secretary of Homeland Security for Immigration Affairs who is appointed under section 103(b).
(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking “Commissioner of Immigration and Naturalization” and “Commissioner” each place they appear and inserting “Under Secretary of Homeland Security for Immigration Affairs” and “Under Secretary”, respectively.
(C) The amendments made by subparagraph (B) do not apply to references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1396).
(b) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the ‘Service Bureau’).
(2) ASSISTANT SECRETARY.—The head of the Service Bureau shall be the Assistant Secretary of Homeland Security for Immigration Services who is appointed under section 5312 of title 5, United States Code, and is further amended by adding at the end the following:
"(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility to provide legal advice and assistance to employees concerning disciplinary actions concerning allegations of misconduct or ill treatment made by the public.
(b) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in the case of employees under the Assistant Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.
(c) SERVICE BUREAU OFFICES.—(1) IN GENERAL.—Under the direction of the Under Secretary, the Service Bureau shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities or in regions in the United States to serve the population to be served. The Under Secretary shall consider the location’s proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.
(2) TRANSITION PROVISION.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.
(d) CONFIRMING AMENDMENTS.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:
"(8) The term ‘Under Secretary’ means the Under Secretary of Homeland Security for Immigration Affairs who is appointed under section 103(b).
(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking “Commissioner of Immigration and Naturalization” and “Commissioner” each place they appear and inserting “Under Secretary of Homeland Security for Immigration Affairs” and “Under Secretary”, respectively.
(C) The amendments made by subparagraph (B) do not apply to references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1396).

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.
(a) ESTABLISHMENT OF BUREAU.—
"(1) In general.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the ‘Service Bureau’).
"(2) Assistant secretary.—The head of the Service Bureau shall be the Assistant Secretary of Homeland Security for Immigration Services who is appointed under section 5312 of title 5, United States Code, and is further amended by adding at the end the following:
"(e) Office of professional responsibility.—There shall be within the Service Bureau an Office of Professional Responsibility to provide legal advice and assistance to employees concerning disciplinary actions concerning allegations of misconduct or ill treatment made by the public.
(b) Training of personnel.—The Assistant Secretary for Immigration Services, in the case of employees under the Assistant Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.
(c) Service bureau offices.—(1) In general.—Under the direction of the Under Secretary, the Service Bureau shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities or in regions in the United States to serve the population to be served. The Under Secretary shall consider the location’s proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.
(2) Transition provision.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.
(a) In general.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:
"(c) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—
(1) ensure that the Directorate’s policies with respect to the immigration service functions of the Directorate are properly implemented; and
(2) ensure that Service Bureau policies or practices result in sound records management and efficient and effective service.
"(d) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility to provide legal advice and assistance to employees concerning disciplinary actions concerning allegations of misconduct or ill treatment made by the public.
(b) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in the case of employees under the Assistant Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.
(c) Service bureau offices.—(1) In general.—Under the direction of the Under Secretary, the Service Bureau shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities or in regions in the United States to serve the population to be served. The Under Secretary shall consider the location’s proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.
(2) Transition provision.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.
also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including subofices and satellite offices, in new geographic locations where there is an identified need.

SEC. 110. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) IN GENERAL.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

(1) APPOINTMENT.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9003 of such title.

(b) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

(1) to assist individuals in resolving problems with the Directorate or any component thereof;

(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

(3) to prepare special studies of the administrative practices or regulations of the Directorate or any component thereof, to mitigate problems identified under paragraph (2);

(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

(c) PERSONNEL ACTIONS.—The Ombudsman shall have the responsibility to direct the Director of the Office to perform the following:

(1) to assist individuals in resolving problems with the Directorate or any component thereof;

(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

(3) to prepare special studies of the administrative practices or regulations of the Directorate or any component thereof, to mitigate problems identified under paragraph (2);

(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

(d) ANNUAL REPORT.—Not later than December 31 of each year, the Ombudsman shall submit to the Senate Committee on the Judiciary of the House of Representatives and the Senate Committee on the Judiciary of the House of Representatives and the Senate Committee on the Judiciary of the House of Representatives, and the Committee on the Judiciary of the Senate, on the activities of the Ombudsman during the preceding year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action; and

(4) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

(5) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction.

(6) recommendations as may be appropriate to resolve problems encountered by the public.
Immigration Review (or its successor entity), on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

(a) Subsections (b) and (c) of section 106 the following:

(2) by striking the item relating to section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) E XERCISE OF AUTHORITIES.

(1) the Under Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1113 are—

(A) immigration policy, administration, and inspection functions;

(B) immigration service functions; and

(C) immigration enforcement functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) IN GENERAL.—

(1) DELEGATION TO THE BUREAUS.—Under the direction of the Secretary, and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), the Under Secretary shall delegate—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement.

(2) RESERVATION OF FUNCTIONS.—Subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), immigration policy, administration, and inspection functions shall be reserved for exercise by the Under Secretary.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.

(1) the Under Secretary may make delegations under this subsection or under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the transferred function immediately before the effective date of the transfer of the function under this title.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Secretary under the Immigration and Naturalization Service (or any successor entity) by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(c) EFFECT OF DELEGATIONS.

(1) the agreements entered into with such official shall remain in effect until the date of termination specified in the agreement.

(d) STATUTORY CONSTRUCTION.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) AUTHORITY OF THE UNDER SECRETARY.—

(1) in general.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service, as provided in section 1113 of this Act, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service, in accordance with the delegation of the functions and the reservation of functions made under section 1114.

(2) LIMITATION.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized.

(b) AUTHORITY TO TERMINATE AFFAIRS OF INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) TREATMENT OF SHARED RESOURCES.—The Under Secretary is authorized to provide for an appropriate allocation, or coordinative, notice, resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement. The Under Secretary shall maintain oversight and control over the shared computer databases and systems management.

SEC. 1116. SAVINGS PROVISIONS.

(a) 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, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of this title, but such proceedings and applications shall be continued.

(b) PROCEEDINGS.—

(1) PENDING.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings as appear to be taken thereunder, and from, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in such proceedings, and any orders made, modified, discontinued, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(c) 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.

(c) SUITS.—This title, and the amendments made by this title, shall not affect suits commenced prior to the effective date of this title, 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 title or the amendments made by this title, had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against an officer of Justice such as Immigration and Naturalization Service, or by or against any individual in the official capacity of such officer as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is personally represented in a suit, action, or other proceeding by or against any such officer, then such suit shall be continued with the other party to a suit with respect to the function to which the fee applies, as applicable, substituted or added as a party.

(I) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, appeal, review by an officer or judge, and any other requirements that apply to any function transferred under this title 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.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1115.

SEC. 1118. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any functions or parts of the Executive Office for Immigration Review of the Department of Justice (or its successor entity), or any officer, employee, or component thereof, to the effective date of this title.

SEC. 1119. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Immigrant Visa Services Act; or (2) the Secretary of Labor or any official of the United States Department of Labor under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance of passports and visas.

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or (3) except as otherwise specifically provided by other laws or in any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1120. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS FOR TRANSITION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the establishment of the Immigration and Naturalization Service; (ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement and Border Affairs; and (iii) the transfer of functions required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) ACTIVITIES SUPPORTED.—Activities supported under paragraph (1) shall—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs, including the preparation of any reports and implementation plans necessary for such transfer; (B) the division, acquisition, and disposition of—

(i) buildings and facilities; (ii) support and infrastructure resources; and (iii) computer hardware, software, and related documentation; (C) other capital expenditures necessary to effect the transfer of functions described in this paragraph; (D) revision of forms, stationery, logs, and signage; (E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and (F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) USE OF FEES.

(1) USE OF FEES.—Funds appropriated by paragraph (1) are authorized to remain available until expended.

(2) FEES.—Fees imposed for a particular service or application, or for similar services provided without charge to asylum and refuge applicants. (3) MEANS OF ACCESS.

Sec. 1121. FUNDING ADMINISTRATION AND NATURALIZATION SERVICES.

(a) LEVEL OF FEES.—Section 238(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking “services, including the costs of similar services provided without charge to asylum applicants or other immigrants” and inserting “services.”

(b) USE OF FEES.—(1) In general.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refuge applicants.

(2) PROHIBITION.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) REFUGEE AND ASYLUM ADJUDICATION SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as may be otherwise available, such purpose fees are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(1) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

(2) FEES.—Fees imposed for a particular service or application, or for similar services provided without charge to asylum and refuge applicants. (3) MEANS OF ACCESS.

The on-line information about the processing status of immigrant, non-immigrant, employer, or other person who applies for immigration services and the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

(4) AVAILABILITY OF FUNDS.—Amounts appropriated by paragraph (1) shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(5) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a). (6) AUTHORIZATION OF APPROPRIATIONS FOR BACKLOG REDUCTION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106-313).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated by paragraph (1) are authorized to remain available until expended.

(3) INFRASTRUCTURE IMPROVEMENT ACCOUNT.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvement Account established by section 204(a)(2) of title II of Public Law 106-313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF ON-LINE DATABASE.—

(1) IN GENERAL.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, non-immigrant, employer, or other person who applies for immigration services and the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

(2) PRIVACY CONSIDERATIONS.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons. (3) MEANS OF ACCESS.—The on-line information under the Internet system described in paragraph (1) shall be accessible to the person described in paragraph (1) through a personal identification number (PIN) or other personalized password.
(4) Prohibition on fees.—The Under Secretary shall not charge any immigrant, non-immigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) Feasibility Study for On-Line Filing and Improved Processing.—

(1) General.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(2) Study Elements.—The study shall—

(i) include a review of computerization and technology, including Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(3) Report.—Not later than 2 years after the effective date of section A, the Under Secretary shall submit to the Committee on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) Technology Advisory Committee.—

(1) Establishment.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the “Technology Advisory Committee”) to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) Composition.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who make use of the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) Assignments of Asylum Officers.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) Amendment of the Immigration and Nationality Act.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. chapter 4) amended by section 366a of the Act is amended by striking “a period of detention” and inserting “a period of detention or detention” after section 366a the following new section:

“SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

“(1) DEVELOPMENT OF ALTERNATIVES TO DETENTION.—The Under Secretary shall—

“(A) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

“(B) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

“(b) SPECIFIC ALTERNATIVES FOR CONSIDERATION.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

“(1) Parole from detention.

“(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

“(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-segregated detention or group detention by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

“(4) Non-institutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

“(5) Institutional settings for minors such as foster care or group homes operated by public nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

“(c) REGULATIONS.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

“(Sec. 236B. Alternatives to detention of asylum seekers.)

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the “Unaccompanied 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 of Refugee Resettlement.

(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) 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 reached 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.

(b) Amendments to the Immigration and Nationality Act.—Section 101(a) (8 U.S.C. 1101(a)) is amended by striking “a period of detention” and inserting “a period of detention or detention” after section 101(a) the following new section:

“(Sec. 1202. Definitions.)

Subtitle E—Rape victims

Subtitle F—Clerical Amendments

Subtitle G—Regulations

Subtitle H—Definitions

Subtitle I—Effective Date

Subtitle J—Unaccompanied Alien Child Protection

Subtitle K—Definitions
(3) Duties with respect to foster care.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the foster children foster care system established by section 1222 of this title, and other funds appropriated for 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, 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 who fail to meet such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(5) 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 Under Secretary of Homeland Security for Immigration Affairs; (3) the Assistant Secretary of State for Population, Refugees, and Migration; (4) the Director.

(c) Chairperson.—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 analyze 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 Allocation of Appropriations and Personnel.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, transfers, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, under the Immigration and Nationality Act of the 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, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and programs—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of 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, as an exception that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) Procedures—

(1) Pending.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, visa, refugee status, parole, 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 to the 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 any 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 respect to such officer or office, as applicable, substituted or added as a party.

(h) Administrative Procedure and Judicial Review.—Any proceeding provided for 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 office, or any other office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

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 235A(4) of the Immigration and Nationality Act; and

(B) remove such child from the United States.

(2) Special Rule for Continuous 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 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 subpara- graph (A), the Service retains all authority over the custody and care of any unaccompanied alien child who—
(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.

(2) TRANSFER TO 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 with the Office to take care of such child 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, the determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1223. FAMILY REUNIFICATION FOR UNACCOMPANYED 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, or a child who is a parent or legal guardian of an unaccompanied alien child shall be promptly placed with the Office if —

(A) the parent seeks to establish custody, as described in paragraph (3)(A), in the case of a parent or legal guardian that is capable and willing to care for the child’s well-being.

(B) the parent or legal guardian is a United States citizen or lawful Permanent Resident and has a substantial familial relationship with the child.

(2) HOME STUDY. —Notwithstanding the provisions of paragraph (1), the Office shall not place an unaccompanied alien child with a person or entity unless a valid home-study conducted by an agency of the State of the child’s proposed placement that is licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(b) PLACEMENT OF UNACCOMPANYED ALIEN CHILDREN. —

(1) STANDARDS FOR PLACEMENT. —

(A) PROHIBITION OF DETENTION IN CERTAIN FACILITIES. —(i) In the case of an unaccompanied alien child, or an alien child in the custody of the Office, or an alien child the custody of whom has been assumed by the Service pursuant to paragraph (1) of subsection (B), the Office shall not place such child in a facility housing delinquent children.

(2) DETERMINATION OF CONDITION OF FACILITIES. —An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in a facility appropriate for delinquent children.

(c) DETERMINATION OF CONDITION. —

In determining whether a facility is appropriate for the detention of alien children, the Office shall consider the characteristics of the facility and the needs of the child, including —

(1) 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 educational services; and

(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.

(2) 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 of Homeland Security 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. REPATRIATION UNACCOMPANYED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS. —

Subject to Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and the extent consistent with 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. —In carrying out repatriation of unaccompanied alien children, the Office shall conduct assessments of country conditions to determine the extent to which the country to which a child is being repatriated has a child welfare system capable of ensuring the child’s well-being.

(b) FACTORS FOR ASSESSMENT. —In assessing country conditions, the Office shall, to the maximum extent practicable, examine the conditions specific to the locale of the child’s repatriation.

(b) REPORT ON REPATRIATION OF UNACCOMPANYED 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 that describes the efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(i) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;

(ii) a description of the type of immigration relief sought and denied to such children.

(iii) 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 UNACCOMPANYED 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 the age of an unaccompanied alien child 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. 1256. EFFECTIVE DATE.

This Act shall take effect one year after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Competent Counsel 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—

(A) conduct interviews with the child in a manner that is inappropriate, taking into account the child’s circumstances arising in the country of the child’s national origin or habitual residence; and

(B) investigate the facts and circumstances relevant to the child’s presence in the United States, including 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 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).

(b) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) 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.

(c) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—In the case of a child over 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.

Subsection D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISAS.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

(1) an immigrant child 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 State or whom such a court has committed to, or placed under the custody of, a department or agency of a State, or an individual 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

(ii) the office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration and Custom Affairs 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 an alien granted special immigrant status under this subparagraph shall thereafter, by virtue of such parenthood, 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 inserting before the period at the end of subsection (a)—

‘‘(A) paragraphs (1), (4), (5), (6), and (7) of section 212(a) shall not apply;’’;

(2) by striking the period at the end of paragraph (a) and inserting ‘‘; and’’;

(3) by adding at the end the following new subparagraph:

‘‘(C) the Secretary of Homeland Security may waive paragraph (2) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied alien children.’’

(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), and who is in the custody of a State shall be eligible for all funds made available under section 419(d) of such Act.

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, paraprofessionals, public counselors, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to the alien’s asylum claim and with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum and for ensuring that immigration judges and immigration court clerks are provided with training to identify and provide information to unaccompanied alien children. The immigration courts shall provide training to immigration judges and immigration court clerks 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 subsection (h).’’

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 CLAUSES.

(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 Board to promulgate such guidelines in its handling of children’s asylum claims before immigration judges and the Board of Immigration Appeals.

(b) APPROPRIATE TRAINING.—The Secretary of Homeland Security shall provide periodic comprehensive training under the ‘‘Guidelines for Children’s Asylum Claims’’ to 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 redesigning paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting at the end of 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 agencies and 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—

(1) striking ‘‘and’’ after ‘‘country’’; and

(2) inserting before the period at the end of the following: ‘‘; and instruction on the needs of unaccompanied children’’;

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 under this title are available until expended.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function.

SEC. 1301. ESTABLISHMENT OF THE AGENCY.

(a) IN GENERAL.—There is established within the Department of Justice the Agency for Immigration Hearings and Appeals in this title referred to as the ‘‘Agency’’.

(b) ABOLITION OF EOIR.—The Executive Office for Immigration Review of the Department of Justice is hereby abolished.

SEC. 1302. SCOPE OF THE AGENCY.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

(c) RESPONSIBILITIES.—The Director shall—

(1) administer the Agency and be responsible for the promulgation of rules and regulations affecting the Agency;

(2) appoint each Member of the Board of Immigration Appeals, including a Chair;

(3) appoint the Chief Immigration Judge; and

(4) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—The Board of Immigration Appeals in this title referred to as the ‘‘Board’’ is composed of the appellate functions of the Agency. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) APPOINTMENT.—Members of the Board shall be appointed by the Director, in consultation with the Chair, from the list of immigration judges, including the independent judicial, curative, and appellate functions of the Board.

(c) QUALIFICATIONS.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(d) CHAIR.—The Chair shall direct, supervise, and establish the procedures and policies of the Board.

(e) JURISDICTION.—

(1) IN GENERAL.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) DE NOVO REVIEW.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(f) DECISIONS OF THE BOARD.—The decisions of the Board shall constitute final agency action, subject to review only as provided by the Immigration and Nationality Act and other applicable law.

(g) INDEPENDENCE OF BOARD MEMBERS.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before them.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Agency the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall have the independent judicial, curative, and appellate functions of the Board.

(c) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(d) JURISDICTION AND AUTHORITY OF IMMIGRATION JUDGES.—Immigration judges shall be appointed by the Director, in consultation with the Chief Immigration Judge.

(e) APPOINTMENT OF PROBATIONARY IMMIGRATION JUDGES.—Immigration judges shall be appointed by the Director, including the Chief Immigration Judge.

(f) INDEPENDENCE OF IMMIGRATION JUDGES.—The immigration judges shall exercise their independent judicial, curative, and appellate functions in the cases coming before the Immigration Court.
SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.
(a) ESTABLISHMENT OF POSITION.—There shall be within the Agency the position of Chief Administrative Hearing Officer.
(b) DUTIES OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. REMOVAL OF JUDGES.
Immigration judges and Members of the Board may be removed only for good cause, including neglect of duty or malfeasance, by the Director, in consultation with the Chair of the Board, in the case of the removal of the Chair, or in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated to the Agency such sums as may be necessary to carry out this title.

Subtitle B—Transfer of Functions and Savings Provisions
SEC. 1311. TRANSFER OF FUNCTIONS.
(a) TRANSFER OF FUNCTIONS.—All functions under the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by section 1401 of this Act) vested by statute in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof) immediately prior to the effective date of this title, are transferred to the Agency.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS, AND PERSONNEL.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, 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 1501 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this section shall be used only for the functions for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, licenses, permits, grants, loans, contracts, agreements, judgments, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, credentials, certificates, licenses, and privileges (1) that have been issued, made, granted, or transferred by or under such terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Immigration Judge or the Executive Office of Immigration Review, 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 be abated 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 employee of the Agency, such suit shall be continued by 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, or the head of such office, or the head of such other office, or to any successor or assigns of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date
SEC. 1201. EFFECTIVE DATE.
This title shall take effect one year after the effective date of division A of this Act.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT
TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS
SEC. 2101. SHORT TITLE.
This title may be cited as the “Chief Human Capital Officers Act of 2002”.

SEC. 2102. AGENT CHIEF HUMAN CAPITAL OFFICERS.
(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec. 1401. Establishment of agency Chief Human Capital Officers.

"1402. Authority and functions of agency Chief Human Capital Officers.

"1403. Establishment of agency Chief Human Capital Officers.

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

(1) advise and assist the head of the agency and other agency officials in carrying out the agency’s responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

(2) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§ 1402. Authority and functions of agency Chief Human Capital Officers

(1) The functions of each Chief Human Capital Officer shall include—

(1) setting the workforce development strategy of the agency;

(2) assessing workforce characteristics and future needs based on the agency’s mission and strategic plan;

(3) aligning the agency’s human resources policies and programs with organization mission, strategic goals, and performance outcomes;

(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

(5) identifying best practices and benchmarking studies; and

(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

(2) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

(A) are the property of the agency or are available to the agency; and

(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from the Federal, State, or local governmental entity.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Chief Human Capital Officers .... 1401".

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.
(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on matters as modernization of human resources systems, identifying best practices and benchmarking studies; and legislation affecting human resources operations and organizations.
(c) EMPLOYER LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations and other organizations that are members of 1 of meeting of the Council each year, Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(11) The Office of Personnel Management shall develop a system for evaluating the performance of agencies for which it is responsible for the implementation and development of human capital management strategies."

SEC. 2106. EFFECTIVE DATE

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL MANAGEMENT CHARTER IN PERFORMANCE PLANS AND PROGRAM PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 51, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) The Office of Personnel Management shall develop a system for evaluating the performance of agencies for which it is responsible for the implementation and development of human capital management strategies."

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 51, United States Code, is amended—

(1) in paragraph (4), by striking "and" after the semicolon and substituting a period for such semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) include a review of the performance goals and evaluation of the performance plan relative to the agency’s strategic human capital management; and"

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) General. Section 33 of chapter 5 of title 5, United States Code, is amended—

(1) in section 330(a), by striking "and" after the semicolon and substituting a period for such semicolon;

(2) in paragraph (1), by striking "and" after the semicolon and substituting a period for such semicolon;

(3) in paragraph (2), by striking the period and inserting (;) and ;

(b) Human Capital Officers Council.—The Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).

(c) Annual Report. Each year the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3). The Chief Human Capital Officer shall submit a report to Congress on the activities of the Council.

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF PRIORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter 1 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

§ 3521. Definitions

"In this subchapter, the term—"

"(1) ‘agency’ means an Executive agency as defined under section 102; and"

"(2) ‘employee’—"

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)(5)) who—"

"(i) is serving under an appointment without time limitation; and"

"(ii) has been currently employed for a continuous period of at least 3 years; and"

"(B) shall not include—"

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;"

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;"

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;"

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;"

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or"

"(vi) any employee whose separation during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;"

"(ii) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or re-location bonus was or is to be paid under section 5373; or"

"(iii) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5374.

§ 3522. Agency plans; approval

(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a chart for the agency since such incentive payments have been completed.

(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid; and

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

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(5) a description of how the agency will operate without the eliminated positions and functions.

(c) The Director of the Office of Personnel Management shall review each agency’s plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. The Director of the Office of Management and Budget shall not be implemented without the approval of the Director of the Office of Personnel Management.

§ 3523. Authority to provide voluntary separation incentive payments

(a) A voluntary separation incentive payment under this subchapter may be paid to an employee provided in the plan of an agency established under section 3522.

(b) A voluntary incentive payment—

(1) shall be offered to agency employees on the basis of—

(A) 1 or more organizational units; (B) 1 or more occupational series or levels; (C) 1 or more geographical locations; (D) skills, knowledge, or other factors related to a position; (E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or (F) any appropriate combination of such factors;

(2) shall be paid in a lump sum after the employee’s separation;

(3) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would have received under section 5956(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or (B) an amount determined by the agency head, not to exceed $25,000;

(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit.

(d) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5990, based on any other separation; and

(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

§ 3524. Effect of subsequent employment with the Government

(a) The term ‘employment’—

(1) includes employment under a personal service contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

(2) in subsection (c) does not include employment under such a contract.

(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts employment in the Federal service without regard to subchapter VI of chapter 53, or comparable provisions; or

(iii) identified as being in positions which are becoming surplus or excess to the agency’s future ability to carry out its mission effectively; and

(ii) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

(A) 1 or more organizational units; (B) 1 or more occupational series or levels; (C) 1 or more geographical locations; (D) specific periods; (E) skills, knowledge, or other factors related to a position; or

(F) any appropriate combination of such factors.

(2) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM—Section 8414(b)(1) of title 5, United States Code, is amended to read as follows:

‘‘(1) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (reorganizing); and

(2) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

(i) 1 or more organizational units; (ii) 1 or more occupational series or levels; (iii) 1 or more geographical locations; (iv) specific periods; (v) skills, knowledge, or other factors related to a position; or

(vi) any appropriate combination of such factors.’’

(3) General accounting office authority—The amendments made by this subchapter shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 Stat. 1063).

4. TECHNICAL AND CONFORMING AMENDMENTS—Section 700 of the Legislative Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.
(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the full and complete implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7065(a)(1) of title 5, United States Code, is amended by striking ‘‘student’’ and inserting ‘‘a member of a uniformed service, and a student who provides voluntary services under section 3111’’.

(b) CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking ‘‘chapter 81 of this title’’ and inserting ‘‘section 7065 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81’’.

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking ‘‘3393a’’;

(B) by repealing section 3393a; and

(C) by deleting the following by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting ‘‘or’’ at the end

(ii) in paragraph (2), by striking ‘‘or’’ at the end; and

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

‘‘(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43;’’;

and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting ‘‘or’’ at the end;

(ii) in paragraph (2), by striking ‘‘or’’ at the end; and

(iii) by striking paragraph (3); and

(iv) in section 7071(c)(1)(A), by striking ‘‘or removal from the Senior Executive Service for failure to be recertified under section 3393a’’;

(4) in chapter 83—

(A) in section 8336(b)(1), by striking ‘‘for failure to be recertified as a senior executive under section 3393a’’; and

(B) in section 8336(h), in the first sentence, by striking ‘‘, except that such reduction shall not apply in the case of an employee retiring to service in the uniformed services or for failure to be recertified as a senior executive’’;

and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking ‘‘for failure to be recertified as a senior executive under section 3393a or’’; and

(B) in section 8421(a)(2), by striking ‘‘, except that an individual entitled to an annuity under section 8336(h) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable minimum retirement age’’;

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3111(c)(1) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been made.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this Act, was certified as a senior executive, and leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. INCREASE OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5303(a) of title 5, United States Code, is amended by adding at the end the following:

‘‘(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 694 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 101 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.’’

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING—ACADEMIC TRAINING.

(a) ACADEMIC TRAINING—ACADEMIC TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

‘‘§ 4107. Academic degree training

(a) Subject to subsection (b), an agency may select an employee to attend an academic degree and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

(1) contributes significantly to—

(A) meeting an identified agency training need;

(B) resolving an identified agency staffing problem; or

(C) accomplishing goals in the strategic plan of the agency;

(2) is part of a planned, systematic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

(b) In exercising authority under subsection (a), an agency—

(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are adequately represented in Government service; and

(B) provide employees effective education and training to improve organizational and individual performance;

(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or to qualify for appointment to a particular position for which the academic degree is a basic requirement;

(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

(A) a noncareer appointment in the Senior Executive Service; or

(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policymaking, or policy-advocating character; and

(4) to the greatest extent practicable, facilitate the use of online degree training.’’

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following: ‘‘4107. Academic degree training.’’

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 4107(c)(5)(B) of the Boren National Security Education Act of 1991 (50 U.S.C. 1962) is amended—

(1) in subparagraph (A), by striking clause (2) and inserting the following:

‘‘(2) if the recipient demonstrates to the Secretary (in accordance with such regulations) that a national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (1); or’’; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

‘‘(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available among the positions listed in paragraph (1), work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (1); and’’.

SEC. 2403. COMPENSATORY TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

‘‘§ 5550b. Compensatory time off for travel

(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to
the extent that the time spent in travel status is not otherwise compensable.

‘‘(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.’’.

DIVISION D—E-GOVERNMENT ACT OF 2002

TITLE XXX—SHORT TITLE; FINDINGS AND DEFINITIONS

SEC. 3001. SHORT TITLE.

This division may be cited as the ‘‘E-Government Act of 2002’’.

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 or 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 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.

(b) PURPOSES.—The purposes of this division are the following:

(1) To provide effective leadership of Federal 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 appropriate, to 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, where appropriate, to establish the integrity of processes.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government services and applications.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decision-making by policy makers.

(8) To provide 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 the 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;

‘‘(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation

‘‘(C) the technologies necessary to perform the mission;

‘‘(D) the information necessary to perform the mission;

‘‘(E) any other technologies that may be necessary to perform the mission;

‘‘(D) ‘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;

‘‘(B) the development of enterprise architecture;

‘‘(C) information security;

‘‘(D) privacy;

‘‘(E) access to, dissemination of, and preservation of Government information;

‘‘(F) accessibility of information technology for persons with disabilities; and

‘‘(G) other areas of electronic Government.

‘‘(2) Subject to requirements of this chapter, the Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;

‘‘(B) all of the functions assigned to the Director under title XXXIII of the E-Government Act of 2002; and

‘‘(C) 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.); and

‘‘(3) other electronic government initiatives, consistent with other statutes.

‘‘(3) The Administrator shall provide oversight of all of the functions assigned to the Director.

‘‘(4) The Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;

‘‘(B) all of the functions assigned to the Director under title XXXIII of the E-Government Act of 2002; and

‘‘(C) other electronic government initiatives, consistent with other statutes.

‘‘(D) The Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;

‘‘(B) all of the functions assigned to the Director under title XXXIII of the E-Government Act of 2002; and

‘‘(C) other electronic government initiatives, consistent with other statutes.

‘‘(D) The Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;

‘‘(B) all of the functions assigned to the Director under title XXXIII of the E-Government Act of 2002; and

‘‘(C) other electronic government initiatives, consistent with other statutes.

‘‘(D) The Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;

‘‘(B) all of the functions assigned to the Director under title XXXIII of the E-Government Act of 2002; and

‘‘(C) other electronic government initiatives, consistent with other statutes.

‘‘(D) The Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;

‘‘(B) all of the functions assigned to the Director under title XXXIII of the E-Government Act of 2002; and

‘‘(C) other electronic government initiatives, consistent with other statutes.

‘‘(D) The Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;

‘‘(B) all of the functions assigned to the Director under title XXXIII of the E-Government Act of 2002; and

‘‘(C) other electronic government initiatives, consistent with other statutes.

‘‘(D) The Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;

‘‘(B) all of the functions assigned to the Director under title XXXIII of the E-Government Act of 2002; and

‘‘(C) other electronic government initiatives, consistent with other statutes.

‘‘(D) The Administrator shall assist the Director in carrying out—

‘‘(A) all functions under this chapter;
initiatives involving multiagency collabora-
tion, through support of pilot projects, re-
search, experimentation, and the use of inno-
vation technologies.

(5) Oversee the distribution of funds from,
and ensure appropriate administration and
coordination of, the E-Government Fund es-
established under section 3604.

(6) Coordinate with the Administrator of
General Services regarding programs under-
taken by the General Services Administra-
tion to promote electronic government and
the efficient use of information technologies
by agencies.

(7) Lead the activities of the Chief Infor-
mation 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. 1411),
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, ex-
erts, 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 de-
scribed under section 3504.

(B) Consistent with the process under sec-
ction 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 lan-
guage.

(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 un-
derstanding of best practices and innovative
approaches to securing, acquiring, using, and
managing information resources;

(B) is intended to improve the perform-
ance of the collaborative use of information technology to
improve the delivery of Government information and
services; and

(C) include—

(i) development of innovative models;

(ii) for electronic Government manage-
ment and Government information technol-
yogy contracts; and

(iii) that may be developed through fo-
cused discussions or using separately spon-
sored research.

(10) Utilization of information for pub-
lic-private collaboration in using Inter-
net-based technology to increase the effi-
ciency of Government-to-business trans-
actions.

(11) Identification of mechanisms for pro-
viding incentives to program managers and
other Government employees to develop and
implement innovative uses of information technolo-
gies; and

(12) Identification of opportunities for pub-
lic, private, and intergovernmental col-
aboration in addressing the deficiencies in
access to the Internet and information tech-
nology.

(13) Sponsor activities to engage the gen-
eral public and enter into development and imple-
mentation of policies and programs, particu-
larly activities aimed at fulfilling the goal of
using the most effective citizen-centered
strategies and those activities which engage
multiple agencies providing similar or re-
lated information and services.

(14) Oversee the General Serv-
ces Administration and other agencies in
developing the integrated Internet-based
system under section 3204 of the E-Govern-
ment Act of 2002.

(15) Coordinate with the Administrator of
the Office of Federal Procurement Policy to
ensure effective implementation of elec-
tronic government in the workplace. Gover-
nment services; and

(16) Ensure compliance with those stan-
dards through the budget review process and
other means.

(17) Oversee the development of enter-
prise architectures within and across agen-
cies.

(18) Assist the Director and the Deputy
Director for Management in overseeing agen-
cy efforts to ensure that electronic Govern-
ment activities incorporate adequate, risk-
based, and cost-effective security compatible
with business processes.

(19) Assist the Office of Electronic Gover-
ment established under section 3602.

(20) Assist the Director in preparing the
E-Government report established under sec-
ction 3609.

(21) The Director shall ensure that the Of-
lice of Management and Budget, including
the Office of Federal Procurement Policy,
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.

S 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 501(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 sec-
ction 3506(a).

(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 activi-
ties of the Council on behalf of the Deputy
Director for Management.

(2)(A) The Chief Information Officer 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 be reselected.

(3) The Administrator of General Services
shall provide administrative and other sup-
port for the Council.

(d) The Council is designated the prin-
cipal interagency forum for improving agen-
cy practices related to the design, acquisi-
tion, development, operation, sharing, and
performance of Federal Government information resources.

(c) In performing its duties, the Council
shall consult regularly with representatives
of State, local, and tribal governments.

(10) The Council shall perform functions
that include the following:

(1) Develop recommendations for the Di-
rector on Government information resources
management policies and requirements.

(2) Review and evaluate best practices,
and innovative approaches related to
information resources management.

(3) Assist the Administrator in the identi-
fication, development, and coordination of
multiagency projects and other innovative
initiatives to improve Government perform-
ance through the use of information tech-
nologies.

(4) Promote the development and use of
common performance measures for agency
information resources management under this
chapter and title XXXII of the E-Gov-

(11) Work as appropriate with the National
Institute of Standards and Technology and
the Administrator to develop recommenda-
tions on information technology standards
developed under section 20 of the National
Institute of Standards and Technology Act
(15 U.S.C. 278g–3), and information technol-
yogy standards developed under section
5131 of the Clinger-Cohen Act of 1996 (40
U.S.C. 1411), as follows:

(A) Standards and guidelines for
interconnectivity and interoperability as de-
scribed under section 3504.

(B) Consistent with the process under sec-
ction 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 lan-
guage.

(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 rel-
ated 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 infor-
mation resources management activities.

S 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 Ad-
ministration to support projects approved by
the Administrator, assisted by the Administrator
of the Office of Electronic Government, that
enable the Federal Government to expand its
ability, through the development and imple-
mentation of innovative uses of the Internet
or other electronic methods, to conduct ac-
tivities electronically.

(3) Projects under this subsection may
include efforts to—

(A) make Federal Government informa-
tion and services more readily available to
members of the public (including individuals,
organizations, businesses, grantees, and State and
local governments);

(B) make it easier for the public to apply
for benefits, receive services, pursue business
interests, submit tax returns, and oth-

(C) enable Federal agencies to take ad-
vantage of innovative uses of
information and conducting transactions with
each other and with State and local

dery.

(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, and 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 partnerships established by section 3203(b) of the E-Government Act of 2002; and

“(C) 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, local, or tribal services, or is designed to serve 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) describes how service delivery will 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.

“(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 3209 of the E-Government Act of 2002.

“(2) T ECHNICAL AND CONFORMING AMENDMENTS.

“(a) 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.

“(b) Funds appropriated under this subchapter shall remain available until expended.

“SEC. 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


“(c) The report established under section 3605 of the E-Government Act of 2002 is amendable by inserting after the item relating to section 3606 the following:

“SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

“(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 Management and Budget to determine the utility of the use of innovative information technologies brought about by such programs.

“(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 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), and (10), respectively; and

“(2) by inserting after paragraph (4) the following:

“(4) Chair the Chief Information Officers Council established under section 3603 of title 44.

“(c) OFFICE OF ELECTRONIC GOVERNMENT.—

“(1) IN GENERAL.—The Chief Information Officers Council established under title 31, United States Code, is amended by inserting after section 506 the following:

“SEC. 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 section 507 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

“SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

“(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 Management and Budget to determine the utility of the use of innovative information technologies brought about by such programs.

“(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 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), and (10), respectively; and

“(2) by inserting after paragraph (4) the following:

“(4) Chair the Chief Information Officers Council established under section 3603 of title 44.

“(c) OFFICE OF ELECTRONIC GOVERNMENT.—

“(1) IN GENERAL.—The Chief Information Officers Council established under title 31, United States Code, is amended by inserting after section 506 the following:

“SEC. 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 section 507 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

“SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

“(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 Management and Budget to determine the utility of the use of innovative information technologies brought about by such programs.

“(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.
(4) Access to docket information for each case.
(5) Access to the substance of all written opinions issued by the court, regardless of their status or whether opinion is published in the official court reporter, in a text searchable format.
(6) Access to all documents filed with the court, except such documents 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 for docketing.
(c) MAINTENANCE OF DATA ONLINE.—
(1) UPDATE OF INFORMATION.—The information and rules on each docket shall be updated regularly and kept reasonably current.
(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 2 years after the effective date of this section shall 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 establish the availability 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 DOCKET 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.—
(1) IN GENERAL.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district may, only to the extent necessary, make available online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.
(g) DEFERRAL.—
(1) IN GENERAL.—
(A) ELECTION.—The Chief Justice of the United States may, only to the extent necessary, make available online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.
(B) EXCEPTION.—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.
(2) 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 method of technology the 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 only with subsection (c).
(3) 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. 2206. REGULATORY AGENCIES.
(a) PURPOSE.—The purposes of this section are to—
(1) improve performance in the development and implementation of regulations; (2) enhance public participation in Government by electronic means, consistent with a timetable established by the Director and reported to Congress in the United States Code.
(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable, agencies shall make electronically accessible, subject to the maximum extent feasible, all information which should be classified under section 3202(g), on the Internet, is organized, preserved, and made accessible to the public.

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 is made available 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.
(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 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 that 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
(ii) 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
(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; and
(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 3202(b) 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, to ensure that the policies and procedures to ensure that chapters 21, 25, 27, 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
(A) impose requirements on agencies for the implementation of the policies and procedures by agencies.
(4) AGENCY FUNCTIONS.—Each agency shall conduct studies and submit recommendations to the Director on
(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 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.
(5) 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.
(e) DETERMINATION OF PRIORITIES.—
(1) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—
(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—
(i) consult with the Committee and solicit public comment;
(ii) determine which Government information the agency intends to make available and accessible to the public on the Internet; and
(iii) the office of the Chief Information Officer shall, as needed, after consulting with the Committee and soliciting public comment, if appropriate.
(2) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—
(A) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE 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—
(aa) include information about research and development funded by the Federal Government and agencies required—
(1) access to 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 contract, grant, and development task or award, including—
(aa) the dates upon which the task or award is expected to start and end;
(bb) a narrative 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 Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to:
(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) the communication 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.
(1) STANDARDS FOR AGENCY WEBSITES. — (A) descriptions of the mission and statutory authority of the agency;
(B) the electronic reading of 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. — The Director shall take actions described under subparagraph (B) before—
(i) developing or procuring information technology that allows, 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 includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.
(B) AGENCY ACTIVITIES. — (i) 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 (i), make the privacy impact assessment publicly available through the website of the agency, publica-
tion in the Federal Register, or other means.
(C) SENSITIVE INFORMATION. — Subparagraph (B) shall not apply to information that is personally identifiable information that is sensitive information, or that protects 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.
(E) 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 sensi-
tivity 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) how the information is being collected; and
(III) the intended use of the information;
(IV) with whom the information will be shared; and
(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how the information is used.
(VI) how the information will be protected; 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).
(2) 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) oversee agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.
(F) 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; and
(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 protected; 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.
SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSE.—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 technology 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. The Secretary shall develop projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(2) 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 report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(3) IN GENERAL.—The purposes of this section are to—

(a) include representatives of the National Institute of Standards and Technology and other agencies;

(b) coordinate with State, local, and tribal governments, public-private partnerships, and other interested persons on effective and interoperable geographic information and development common protocols; and

(c) the adoption of common standards related to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize 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) provide widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out this section, for each of the fiscal years 2003 through 2007.

(2) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee coordination of information systems, to reduce the burden on the executive branch can implement, or the executive branch can implement, or the executive branch can implement, without acquiring directly governmental public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, by acquiring directly public access to databases within and across agencies.

(3) 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 mission-related or administrative processes of the Federal Government.

SEC. 3212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) PURPOSE.—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 duplication and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain 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 in 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 coordination of information systems, and publish 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 regulatory persons in information, 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, by acquiring directly 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 one pilot project.
(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) improve interoperability between or among public databases managed by 2 or more institutions or technologies 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.

(4) PILOT PROJECTS.—The activities authorized under this section shall afford protections for—
(A) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;
(B) personal privacy information under section 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and
(C) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.
(a) PURPOSE.—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 off-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technologies and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the date of enactment of this Act, 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; and
(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) is considered—
(1) an evaluation of the best practices being used by successful community technology centers;
(2) a report to the Congress 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 Secretary 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) contributions 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, 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.

(g) 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.

(h) 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.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums are necessary for fiscal year 2003.

(j) PILOT PROJECTS.—The activities 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 the enhancement of 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;
(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and
(iii) opportunities for research and development to enhance technologies and improve the Nation’s ability for potential improvement as determined during the course of the study.

(2) 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.

(3) 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.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums are necessary for fiscal year 2003.

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 the National Research Council to enter into a contract to conduct a study on disparities in Internet access for different areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce, the National Science Foundation, for the purpose of the study, such sums as are necessary for fiscal years 2005 through 2007.
(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 provided through—

(A) the nature of disparities in Internet access; and

(B) the affordability of Internet service;

(2) how 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

(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—

(1) 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 106–266) is amended by inserting at the end the following:

"SEC. 1009. 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 amended by adding at the end the following:

"SEC. 3536. CONCLUSION OF AUTHORITY.

An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the pilot of an aircraft who is a Federal flight deck officer under this section on or after April 16, 2002.

(c) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer to carry firearms, under this section or out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy.

(d) LIMITATION ON LIABILITY.—

(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the pilot of an aircraft who is a Federal flight deck officer under this section on or after April 16, 2002.

(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the pilot of an aircraft who is a Federal flight deck officer under this section on or after April 16, 2002.

(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an employee of the Government while acting within the scope of his or her office or employment with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy.

(4) AUTHORITY TO HIRE AND FIRE.—The Director of the Federal Aviation Administration may discharge any Federal flight deck officer.
“(1) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

“(2) PILOT DEFINED.—In this section, the term ‘pilot’ means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.

(b) FLIGHT DECK SECURITY AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting after the last paragraph relating to section 44920 the following new item:

“§44921. Federal flight deck officer program.”

(2) EMPLOYMENT INVESTIGATIONS.—Section 44926(a)(1)(A) is amended—

(A) by aligning clause (ii) with clause (i); and

(B) by striking “and” at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting ‘‘;” and;

(C) by adding at the end the following:

“(v) qualified pilots who are designated as Federal flight deck officers under section 44921.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903) is repealed.

SEC. 4104. CABIN SECURITY.

(a) CABIN SECURITY REQUIRMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesigning subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107-71) as subsection (j), and;

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107-71) as subsection (k).

(b) AVIATION CREW MEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) IN GENERAL.—

“(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program described in subsection (b) to prepare crew members for potential threats conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

“(2) AVIATION CREW MEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division in the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary of Transportation for Security.

“(3) REQUIREMENTS.—Each air carrier shall provide the initial training under the program every 12 months after receiving the requirements described in subsection (a).

“(4) TRAINING CURRICULUM.—Air carriers shall provide the initial training under the program within 30 days after receiving the requirements described in subsection (a).

“(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers equip crew members in crew with a hands-free, wireless method of communicating with the flight deck.

“(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

“(A) maximizing the security of the flight deck crew;

“(B) enhancing the safety of the flight deck crew;

“(C) protecting the safety of the passengers and crew;

“(D) preventing acts of criminal violence or air piracy;

“(E) the cost of the program;

“(F) privacy concerns;

“(G) the feasibility of installing such a device in the flight deck;” and

“(7) by adding at the end the following new subsection:

“(f) RULEMAKING AUTHORITY.—Notwithstanding subsection (i) (relating to authority to arm flight deck crew with less-than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall conduct a study with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

“(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

“(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials;

“(g) LIMITATION ON LIABILITY.—

“(1) AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier’s training instructors or cabin crew using reasonable and necessary force in defending an aircraft or the air carrier against acts of criminal violence or air piracy.

“(2) TRAINING INSTRUCTORS AND CABIN CREW.—An air carrier’s training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of a training instructor or a member of the cabin crew regarding acts or omissions of the air carrier against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.

“(h) NONNATIVE WEAPONS FOR FLIGHT ATTENDANTS.—

“(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a non-lethal weapon by a member of an air carrier’s cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial aircraft.

“(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).
shall remain closed and locked at all times during flight, except for mechanical or physiological emergencies.

"(b) MANTRAP DOOR EXCEPTION.—It shall not be necessary for an authorized person to enter or leave the flight deck during flight of any aircraft described in subsection (a) that is equipped with double doors between the flight deck and the passenger compartment that are designed so that—

(1) any person entering or leaving the flight deck is required to lock the first door through which that person passes before the second door can be opened; and

(2) the flight crew is able to monitor by remote camera the area between the 2 doors and prevent the door to the flight deck from being unlocked from that area."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44916 the following:

"44917. Prohibition on opening cockpit doors in flight."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 day after the date of enactment of this Act.

SA 4826. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENSON, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill S. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to the report, as follows:

SA 4827. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. MCINTOSH, Mr. ABBOTT, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table, as follows:

SEC. 172. AIRLINE PASSENGER SCREENING.

Section 49901(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 4828. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. McINTOSH, Mr. ABBOTT, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; 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, homeland security, and commerce, as previously done for the interstate highway system, the Federal aviation network, and the transcontinental railroad.

(2) the creation of joint use corridors for rail transportation, fiber optics, pipelines, and utilities are an efficient and appropriate approach to optimizing the nation's interconnectedness and national security;

(3) 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 throughout the western United States;

(4) Government assistance and encouragement in the development of the Alaska Railroad network; and

(c) NEGOTIATION AND LAND TRANSFER.—

(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, in trust for the further extension of such corridor to a connection with the nearest appropriate terminal of the North American rail network in Canada.

(d) APPLICABILITY OF OTHER LAWS.—

(A) Actions authorized in this Act shall be subject to all applicable Federal, State, and local laws; and

(D) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.
proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. McCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 11. FOOD AND DRINKING WATER SUPPLY SECURITY PROGRAM. (a) FINDINGS.— Congress finds that—
(1) 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 this Act was enacted; and
(3) the Act does not specifically require pre-positioning of food supplies;

(b) REPOSITORIES. (1) IN GENERAL. The Secretary of Homeland Security shall establish secure repositories for food and drinking water for major population centers in the United States; and
(2) no certificate holder may use the services of any person as a pilot on an aircraft engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 63 years of age or older; and

(c) CONTENTS. (1) IN GENERAL. 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.

(d) 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.

(e) 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:
(5) The term ‘unaccompanied refugee children’ means persons described in paragraph (4) 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 established 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 professional or other entities qualified to contract with the Office to provide the services described in paragraphs (1) and (2);

(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) whether the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(H) 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 to support Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(ii) 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 care and 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 or to reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(5) AUTHORITY TO HIRE PERSONNEL.—The Director may hire and fire the personnel necessary or useful to ensure compensation of a 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.

(6) NO EFFECT ON SERVICE, EOIR, AND DEPARTMENT OF STATE ADJUDICATORY RESPONSIBILITIES.—Nothing in this title may be construed to transfer, reallocate, or otherwise affect the adjudicatory functions of the Immigration and Nationality Act (or any other authority of the Department of Health and Human Services, the Executive Office for 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 this subtitle, the 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.

(1) The Task Force shall—

(A) establish policies, procedures, and guidelines to ensure the adequate maintenance of statistical information on the needs and treatment of unaccompanied alien children in the custody of the United States Government;

(B) conduct interviews and processing of unaccompanied alien children in the custody of the United States Government;

(C) establish and maintain a system to identify, locate, and reunify children with their families or other appropriate sponsors or guardians when possible;

(D) utilize the refugee children foster care system established in section 1212;

(E) convene, in the absence of the Assistant Secretary, Administration for Children and Families, the Interagency Task Force on Unaccompanied Alien Children.

(2) The Director may, after consultation with the Task Force, enter into agreements with public and private entities to provide services to unaccompanied alien children;

(3) Upon request of the Director, the Assistant Secretary, Administration for Children and Families, the Bureau of Population, Refugees, and Migration, or the Attorney General, the Commissioner of Immigration and Naturalization shall provide such assistance as is feasible to the Task Force;

(4) The Director shall be responsible under this title for ensuring that the best interests of the unaccompanied alien child are considered in decisions and actions relating to the care and placement of such child;

(5) The Director shall perform the duties described in sections 1231 and 1232; and

(6) The Director shall be responsible for the custody and care of such children.

(7) The Director is authorized to hire and fix the level of personnel to carry out the duties of the Office or any successor entity.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.

(1) APPROPRIATIONS.--The funds provided to the Commissioner of Immigration and Naturalization shall be transferred to the Task Force.

(2) TAX REVENUES.--The amounts derived from any taxes shall be transferred to the Task Force.

(3) DUTIES.--The Commissioner of Immigration and Naturalization shall be responsible for the custody and care of such children until such time as the services described in sections 1222, 1223, and 1232 to house unaccompanied alien children in accordance with sections 1222 and 1223 to are transferred to the Office.

(c) TRANSFER OF APPROPRIATIONS.

(1) That have been issued, made, granted, or executed prior to the effective date of this subtitle to the Office, shall be transferred to the Office.

(2) DUTIES.—The transfer of funds under subsection (a) shall not affect any function that is transferred pursuant to this section, but such proceedings and applications shall be continued.

(d) PROCEEDINGS.—

(1) PENDING.--The transfer of functions under subsection (a) shall not affect any proceeding commenced before the effective date of this title.

(2) ORDER.—Orders shall be issued in such proceeding in accordance with the provisions of law by the Commissioner of Immigration and Naturalization or, upon the effective date of this subtitle, by the Secretary of Homeland Security for Immigration Affairs.

(3) SUITS.—Suits commenced before the effective date of this title, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) CONTINUATION 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 transferred pursuant to this Act, such suit shall be continued with the other officer or the head of such office, as applicable, substituted or added as a party.

(b) 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 transferred pursuant to this Act, such suit shall be continued with the other officer or the head of such office, as applicable, substituted or added as a party.

(b) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, 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 any individual in connection with a function transferred under this section shall be continued, terminated, superseded, or revived by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(d) PROCEEDINGS.—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.

(c) LEGAL DOCUMENTS.—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.

(d) TRANSITION PROVISIONS.

(1) TRANSFER OF FUNCTIONS.—All functions with respect to the care and custody of unaccompanied alien children under the Immigration and Nationalization Service shall be transferred to the Office.

(2) APPROPRIATIONS, AUTHORIZATIONS, ALLOCATIONS, AND GRANTS.—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) SCHEDULE.—This section shall not affect suits commenced before the effective date of this subtitle, 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 section had not been enacted.

(f) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.—The 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 a function transferred pursuant to 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 appropriated and appropriated.

(g) 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 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 this Act and that are transferred or continue to effect pursuant to this Act shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the Commissioner of Immigration and Naturalization Service, the Secretary of Homeland Security, or any other Government 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.

(g) SCHEDULE.—This subtitle shall take effect on the effective date of division A of this Act.
Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1211. 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 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—

(i) has been omitted from the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child’s application for admission pursuant to section 235a(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 assistance, 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 could 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.

(c) 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 shall be 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 safety, care, and legal guardian, 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 are not nationals of the United States.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) is an alien who is not a national of the United States.

(ii) has been convicted of any such felony.

(iii) is an alien who is not a national of the United States.

(2) Procedures.—In accordance with section 1225, the Office shall retain or assume the custody of any unaccompanied alien child who—

(i) is in the custody of the Office, or

(ii) is in the custody of a parent or legal guardian, and the Secretary of Homeland Security determines that a placement is in the child’s best interest and does not violate the child’s rights under applicable law.

(3) Right of parent or legal guardian to custody of unaccompanied alien child.—

(A) Placement with parent or legal guardian.—If any 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 pursuant to the Administrative Law Judges Act of 1947 (28 U.S.C. 2361 et seq.), shall be considered to be in the custody of the Office.

(B) Rule of construction.—Nothing in this title shall be construed to impair any of the rights or remedies of any alien child who is a United States citizen, or any of the rights or remedies of any alien seeking admission to the United States.
Section 1224. Repatriated Unaccompanied Alien Children.

(a) Country conditions.—

(1) In general.—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 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 whether children 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) Process 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 the 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 other characteristics 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 the procedures used to ensure that such children were safely and humanely repatriated to their country of origin.

(d) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

Section 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 witnesses other than law enforcement officers, to determine an unaccompanied alien child’s age for purposes of placement, custody, parole, and detention. Such procedures shall allow for the appeal of a determination to an immigration judge. Radiographs shall not be the sole means of determining age.

Section 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 child is placed in the constructive custody of such child. The Director is encouraged, wherever practicable, to contract with an independent agency for the selection of an individual who shall 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. In the case of a child who is 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 such parent or legal guardian assumes physical custody of the child.

(C) 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 300A of title 18, United States Code.

(C) Assumption of the Cost of Government-Funded Counsel.—Counsel 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 such parent or legal guardian assumes physical custody of the child.

(D) Development of Necessary Infrastructure and Systems.—In ensuring that the child understands such determinations and proceedings, and (E) ensure that the child understands such determinations and proceedings under the Immigration and Nationality Act; and

(F) ensure that the child understands such determinations and proceedings under the Immigration and Nationality Act; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(2) 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 300A of title 18, United States Code.

(C) Assumption of the Cost of Government-Funded Counsel.—Counsel 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 such parent or legal guardian assumes physical custody of the child.

(D) Development of Necessary Infrastructure and Systems.—In ensuring that the child understands such determinations and proceedings, and (E) ensure that the child understands such determinations and proceedings under the Immigration and Nationality Act; and

(F) ensure that the child understands such determinations and proceedings under the Immigration and Nationality Act; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(2) 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 300A of title 18, United States Code.

(C) Assumption of the Cost of Government-Funded Counsel.—Counsel 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 such parent or legal guardian assumes physical custody of the child.

(D) Development of Necessary Infrastructure and Systems.—In ensuring that the child understands such determinations and proceedings, and (E) ensure that the child understands such determinations and proceedings under the Immigration and Nationality Act; and

(F) ensure that the child understands such determinations and proceedings under the Immigration and Nationality Act; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(2) 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 300A of title 18, United States Code.

(C) Assumption of the Cost of Government-Funded Counsel.—Counsel 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 such parent or legal guardian assumes physical custody of the child.

(D) Development of Necessary Infrastructure and Systems.—In ensuring that the child understands such determinations and proceedings, and (E) ensure that the child understands such determinations and proceedings under the Immigration and Nationality Act; and

(F) ensure that the child understands such determinations and proceedings under the Immigration and Nationality Act; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).
The amendment made by section 1241 shall apply to all eligible children who were in the United States before, or on the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SECTION 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 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.

SECTION 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesigning 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 facing unaccompanied children by region. Such analysis shall include an assessment of—

(A) the number of unaccompanied refugee children, by region; and

(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; and

(D) the capacity of the voluntary agencies community to resettle 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(c)(2) (8 U.S.C. 1157(c)(2)) is amended by—

(1) striking “and” after “countries,”; and

(2) inserting before the end of 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. The children’s 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 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 participates.

(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. 1201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for unaccompanied alien children:

(1) FOR THE EXEClECUTIVE OFFICE OF IMMIGRATION REVIEW.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SA 4831. 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 220, strike line 21 and insert the following:

TITLe XI—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.

SEC. 1203. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) PURPOSE.—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, prior to the effective date of this title, the Director of Immigration Affairs).

(3) The Secretary of Homeland Security.

(4) The Attorney General.

(5) The Secretary of Health and Human Services.

(6) The Director of the Office of Refugee Resettlement.

(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) monitor and evaluate the progress of states in meeting the needs of unaccompanied alien children in the custody of state agencies; and

(2) identify and implement best practices for the care and custody of unaccompanied alien children in the custody of the States.

SEC. 1204. UNACCOMPANIED ALIEN CHILD.

The term “unaccompanied alien child” means a child who—

(A) has no lawful immigration status in the United States; or

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) the child is a former child in the custody of the custody of the Office;

(D) is in the custody of the Office; or

(E) has no parent or legal guardian in the United States, or

(F) has not been placed in the custody of an appropriate State agency; and

(G) is in the custody of another entity.

SEC. 1205. UNACCOMPANIED ALIEN CHILDEN.

The term ‘unaccompanied alien children’ means persons described in paragraph (2) 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.—The Office shall be responsible for—

(1) coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status and

(2) ensuring compliance with provisions of care and placement for all unaccompanied alien children.

(b) DUTIES WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible under this title for—

(1) overseeing the performance of the responsibilities of the Office; and

(2) ensuring compliance with the provisions of this title.
statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component there-of), immediately prior to the effective date of this Act, shall be transferred to the Office.

(b) Transfer and Allocations of Appropriations.—The liabilities, contracts, property, records, and unexpended balances of appropriations, allotments, 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 1536 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 same purposes for which such 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 Immigration and Naturalization and Naturalization Service, the Attorney General, the Attorney General, or a Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this Act shall be void;

(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 on such date pursuant to their terms as in effect on such date as provided 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 Act in an office within the Department of Justice, and such proceedings and applications shall be continued.

(2) New Actions.—Wherever actions 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.

(3) Continuance or Modification.—Nothing in this section shall be construed to prohibit the continuance or modification of any 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 section, and in all such suits, proceeding shall be had, appeals take place, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) Statement 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 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 entity, the determination of the other officer or entity, as well as 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 petition 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. FEDERAL REALLOCATION OF UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS.

(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) TRANSFER TO THE OFFICE.

(i) if such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) A parent who seeks to establish custody of the child;

(B) any custodian that is capable and willing to provide such child with care and custody;

(C) any other officer or employee of the Department of Homeland Security that is designated by the Secretary of Homeland Security; or

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child’s well-being.

(b) Custody of Unaccompanied Alien Children Found in the Interior of the United States.—

(1) Establishment of Jurisdiction.—

Except as provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibilities pertaining to their detention, 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 subparagraphs (A) and (C), the Service shall retain or assume the custody and care of any 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 section, the 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—

(A) Transfer to the Office.—The care and custody of any 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), not later than 72 hours after the apprehension of such child.

(B) Return of Child.—The Secretary shall promptly notify the Office.

(3) Transfer of Unaccompanied Alien Children.—

(A) TRANSFER TO THE OFFICE.—The care and custody of any 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;

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child.

(B) Return of Child.—The Secretary shall promptly notify the Office.

(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 UNACOMPANIED 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) Custody of Unaccompanied Alien Children Found in the Interior of the United States.—

(1) Establishment of Jurisdiction.—

Except as provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibilities pertaining to their detention, 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 subparagraphs (A) and (C), the Service shall retain or assume the custody and care of any 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 section, the 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—

(A) Transfer to the Office.—The care and custody of any 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;

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child.

(B) Return of Child.—The Secretary shall promptly notify the Office.

(3) Transfer of Unaccompanied Alien Children.—

(A) TRANSFER TO THE OFFICE.—The care and custody of any 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;

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child.

(B) Return of Child.—The Secretary shall promptly notify the Office.

(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.
TITLE IV—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 may, in the Director’s discretion, appoint a guardian ad litem who meets the qualifications described in paragraph (2) to represent an unaccompanied alien child to whom this section applies.

(b) QUALIFICATIONS.—

(A) IN GENERAL.—The Director shall, in consultation with the Office of Juvenile Justice and Delinquency Prevention, establish a national standard for the qualifications of a guardian ad litem. Such standard shall include the following:

(i) The guardian ad litem is a registered member of the State bar association of the State in which the alien child resides. In the absence of a State bar association, the guardian ad litem is an attorney or legal representative who has a license to practice law in the United States.

(ii) The guardian ad litem has experience in the practice of law.

(iii) The guardian ad litem is familiar with the practice of law.

(iv) The guardian ad litem is licensed to practice law in the United States.

(v) The guardian ad litem has experience in the practice of law.

(vi) The guardian ad litem has experience in the practice of law.

(vii) The guardian ad litem has experience in the practice of law.

(viii) The guardian ad litem has experience in the practice of law.

(B) EXCEPTIONS.—In the case of a minor child who is a ward of the State or who is an emancipated minor, the Director may appoint a guardian ad litem who meets the requirements of subparagraph (A)(ii) and is authorized by State law to represent minors in the absence of a State bar association.

(c) DUTIES.—The guardian ad litem shall:

(1) Use the best efforts to ensure the welfare of the alien child;

(2) File a petition for the leave of the court to conduct the custodial placement of the child;

(3) Represent the child in any proceeding before the court, including any appeal to the court of appeals; and

(4) Provide any other services that the court deems appropriate.

(d) REMOVAL.—The Director may remove a guardian ad litem at any time if the Director determines that the guardian ad litem is not meeting the requirements of this section or is not meeting the requirements of this section.

Title IV—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

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(b) QUALIFICATIONS.—

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(i) The guardian ad litem is a registered member of the State bar association of the State in which the alien child resides. In the absence of a State bar association, the guardian ad litem is an attorney or legal representative who has a license to practice law in the United States.

(ii) The guardian ad litem has experience in the practice of law.

(iii) The guardian ad litem is familiar with the practice of law.

(iv) The guardian ad litem is licensed to practice law in the United States.

(v) The guardian ad litem has experience in the practice of law.

(vi) The guardian ad litem has experience in the practice of law.

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(c) DUTIES.—The guardian ad litem shall:

(1) Use the best efforts to ensure the welfare of the alien child;

(2) File a petition for the leave of the court to conduct the custodial placement of the child;

(3) Represent the child in any proceeding before the court, including any appeal to the court of appeals; and

(4) Provide any other services that the court deems appropriate.

(d) REMOVAL.—The Director may remove a guardian ad litem at any time if the Director determines that the guardian ad litem is not meeting the requirements of this section or is not meeting the requirements of this section.
right of unaccompanied alien children in care of the Office;

(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 1221a(k)(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.

(b) TRAINING.—The Director 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) WAIVER OF LOUDSPEAKER RESTRICTIONS AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall establish the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(c) CONTRACTING AND GRANTMAKING AUTHORITY.—

(a) IN GENERAL.—Subject to the availability of appropriations, the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractor for more than one of the following services:

(i) Services provided under section 1221.

(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2). (iv) Requirements of this section shall be met in full.

(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 in all proceedings and actions relating to the child’s immigration status or other actions involving the custody and care of the child.

(d) ACCESS TO CHILD.—

(a) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child and shall have the opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

(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 contractor for more than one of the following services:

(i) Services provided under section 1221.

(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2).

(iv) Requirements of this section shall be met in full.

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(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2).

(iv) Requirements of this section shall be met in full.

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(c) DUTIES.—Counsel shall represent the unaccompanied alien child in all proceedings and actions relating to the child’s immigration status or other actions involving the custody and care of the child.

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(iv) Requirements of this section shall be met in full.

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(i) Services provided under section 1221.

(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2).

(iv) Requirements of this section shall be met in full.

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(a) IN GENERAL.—Subject to the availability of appropriations, the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractor for more than one of the following services:

(i) Services provided under section 1221.

(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2).

(iv) Requirements of this section shall be met in full.

(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 in all proceedings and actions relating to the child’s immigration status or other actions involving the custody and care of the child.

(d) ACCESS TO CHILD.—

(a) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child and shall have the opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

(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 contractor for more than one of the following services:

(i) Services provided under section 1221.

(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2).

(iv) Requirements of this section shall be met in full.

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(i) Services provided under section 1221.

(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2).

(iv) Requirements of this section shall be met in full.

(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.

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(i) Services provided under section 1221.

(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2).

(iv) Requirements of this section shall be met in full.

(c) CONTRACTING AND GRANTMAKING AUTHORITY.—

(a) IN GENERAL.—Subject to the availability of appropriations, the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractor for more than one of the following services:

(i) Services provided under section 1221.

(ii) Services provided under section 1221.

(iii) Services provided under paragraph (2).

(iv) Requirements of this section shall be met in full.

(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 in all proceedings and actions relating to the child’s immigration status or other actions involving the custody and care of the child.
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 striking paragraph (a) and (b) thereof, by striking the period at the end of subsection (a) and inserting “; and” and “; and” at the end of subsection (b) thereof, and by striking paragraph (c) thereof and inserting “(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 (c), 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 or such date as the Secretary shall determine will allow for the child to be placed in a permanent adoptive home, whichever occurs first.

SEC. 1242. TRAINING OF FEDERAL AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF FEDERAL 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 Homeland Security, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. The 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 1222(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 November 1996, and encourages 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. Volunteer agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(o) (8 U.S.C. 1157(o)) 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:

“(8) 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 children;

(C) the capacity of the international community to care for and protect such refugees, by region;

(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 fact 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(t)(2) (8 U.S.C. 1157(t)(2)) is amended by—

(1) striking “and” after “countries”;

(2) inserting before the period at the end of the following “; and instruction on the needs of unaccompanied refugee children”;

(c) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—Section 207(t)(6) (8 U.S.C. 1157(t)(6)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by striking and inserting “(8) to address issues relating to urban violence, including incidents involving weapons of mass destruction; and” at the end of such section.

SEC. 1253. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is established a program to provide assistance to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and to address issues relating to urban search and rescue task forces.

(b) WAFFOF MASS DESTRUCTION.—The term ‘weapon of mass destruction’ has the meaning given the term in section 2302 of title 50, United States Code.”

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 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.

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. 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. 5166(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. 5166 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’ (hereafter 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 government 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 500(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. 5176 et seq.) is amended by adding at the end the following:

SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) Definition.—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 in 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 under the program shall be 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) 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; and

(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).

(3) Allocation of Funds.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

(I) to each of the States 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

(J) to each of the other States 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 Building Act of 1959 (40 U.S.C. 612));

(III) nuclear power plants; and

(IV) chemical plants; and

(V) national landmarks;

and

(ii) 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), the 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).

(5) Administrative Expenses.—

(I) Director.—For each fiscal year, the Director may use payments 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) $40,000,000 for each fiscal year beginning after 2006, $50,000,000 for each fiscal year ending before 2006;

and

(ii) for each of fiscal years 2003 through 2006, $50,000,000.

(2) Receipts of Assistance.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of paragraph (1)(B) 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 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;

(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives;


(iv) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 170(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 376d(a)); and

(v) 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.

(j) 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 that 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 that the President determines may be harmful to human health.

(b) Program.—The term ‘program’ means a program as provided in subsection (b)(1).

(c) Activities.—A program shall include—

"(1) collection and analysis of environmental and exposure data;

"(2) development and dissemination of educational materials;

"(3) provision of information on releases of a hazardous substance;

"(4) study of the long-term health impacts of any exposure to a harmful substance through epidemiological studies; and

"(5) 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.

(d) Participation in registries and studies.—

"(1) IN GENERAL.—Participation in any registry or study under subparagraph (D) or (E) of this subsection shall be voluntary.

"(2) 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).

(e) 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—

"(1) located in close proximity to the major disaster area with respect to which the program is carried out;

"(2) experienced in the area of environmental or occupational health and safety, including—

"(i) conducting long-term epidemiological studies;

"(ii) conducting long-term mental health studies;

"(iii) establishing and maintaining environmental exposure or disease registries.

(f) Reports and responses to studies.—

"(1) 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 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. 5197e) is amended by striking subsection (a) and inserting the following:

"(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.

(c) Priorities for funding.—The Director shall distribute funding under this section 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.

(d) Grant requirements.—The Director shall establish grant requirements as are necessary to provide grants under this section.

(e) Establishment of additional urban search and rescue task forces.—

"(1) In order to carry out 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 Act.

"(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 628 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 may be necessary to carry out this title (other than sections 630 and 632).

(b) Preparedness assistance for first responders.—There are authorized to be appropriated such sums as may be necessary to carry out this title (other than sections 630 and 632).

(c) Urban search and rescue task forces.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this title (other than sections 630 and 632).

(2) Availability of amounts.—Amounts made available under subparagraph (A) shall remain available until expended.

SA 4833. 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 72, line 23, strike ‘‘(3)’’ and insert ‘‘(2)’’.

On page 73, line 1, strike ‘‘(4)’’ and insert ‘‘(3)’’.

On page 73, line 17, strike ‘‘(5)’’ and insert ‘‘(4)’’.

On page 73, line 23, strike ‘‘(6)’’ and insert ‘‘(5)’’.

On page 74, strike lines 7 through 22 and insert the following:

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report.

On page 75, between lines 2 and 3, insert the following:

(1) 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, strike lines 13 and 14.

On page 128, line 24, strike ‘‘134(b)(7)’’ and insert ‘‘134(b)(6)’’.

SA 4834. 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:

hombound 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:

emergency preparedness 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 ‘‘(15)’’ and insert ‘‘(14)’’.

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 ‘‘23137’’ and insert ‘‘23136’’.

On page 109, strike ‘‘of the Department’’.

On page 112, line 5, strike ‘‘138’’ and insert ‘‘137’’.

On page 112, line 10, strike ‘‘23139’’ and insert ‘‘138’’.

On page 112, between lines 4 and 5, insert the following:

(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 118, 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,’’ 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 with respect to the resources and requirements of executive agencies relating to border security.

SA 4835. Mr. DEWINE (for himself, Mr. BINGAMAN, Mr. DORGAN, Mr. DOMENICI, Mr. THURMOND, Ms. CANTWELL, Mr. HELMS, Mr. ALLARD, Mr. LIEBERMAN, Mr. CARPER, and Mr. DODD) submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

On page 45, line 20, strike ‘‘$75,695,000’’ and insert ‘‘$72,695,000’’.

On page 85, line 3, strike ‘‘$29,831,000’’ and insert ‘‘$17,831,000’’.

On page 85, line 19, strike ‘‘$927,741,000’’ and insert ‘‘$927,741,000’’.

On page 85, line 20, strike ‘‘until expended’’ and insert ‘‘until expended, of which not less than $29,831,000 will be for the Next Generation of Lighting Initiative’’.

SA 4836. Mr. HOLLINGS (for himself, Mr. McCAIN, Mr. CARPER, and 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 appropriate place, insert the following:

SEC. 1. 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) $430,000,000 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 Balti- more, Maryland.

(2) Availability of appropriated funds.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) Plan required.—Except for extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, which are subject to subparagraph (3)(C) of this paragraph, the Secretary may not make amounts available to Amtrak for obligation or expenditure under paragraph (1).

(A) For implementing systemwide security upgrades until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the head of the department exercising the authority granted by section 114 of title 49, United States Code, if that department is not the Department of Transportation, 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 and expenditure of amounts available to Amtrak for the purpose for which the funds are provided.

(4) Financial contribution from other 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 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 45 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 identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, release the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

SEC. 2. 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) AGREEMENTS BY DOT INSPECTOR GENERAL.—

(A) INITIAL ASSESSMENT.—Within 60 days after the 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 Representa-
tives Committee on Transportation and Infra-
structure a report—

(i) identifying any overlap between capital projects and highway projects which are provided under such funding documents, procedures, or arrange-
ments 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 or obligated pursuant to paragraph (1).

(B) OVERLAP REVIEW.—The Inspector General shall, part of the Department’s annual assessment of Amtrak’s financial status and capital funding requirements review the ob-
ligations and expenditure of funds under each such funding document, procedure, or arrange-
ment to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are pro-
vided under this Act.

(b) 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 title V of title 49, United States Code.

(9) PROHIBITION ON USE OF EQUIPMENT FOR EMPLOYMENT-RELATED PURPOSES.—An em-
ployer may not use closed circuit television cameras pursuant to paragraph (8) to monitor persons except—

(A) employees who are employees of the Federal Government; or

(B) other persons within the purview of section 10 of chapter 11 of title 38, United States Code.

SA 4837. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 4085, to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans to expand certain benefits for veterans and their sur-
vivors, and for other purposes; as fol-
low:

Strike all after the enacting clause and in-
sert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans Compensation Cost-of-Living Adjustment Act of 2002”.

SEC. 2. INCREASE IN RATES OF DISABILITY COM-
PENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veteran Affairs—

(1) from the date of enactment of this Act, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation for veterans with service-connected disabilities,

(2) by an amount, be rounded down to the next lower whole dollar amount.

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the amounts specified in subsection (b) of section 1311(c) and 1314 of title 38.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2002.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2002, as a re-

TITLE II—EDUCATION MATTERS

Sec. 201. Three-year increase in aggregate an-
nual amount available for State approving agencies for adminis-
trative expenses.

Sec. 202. Clarifying improvement of various education author-
ities.

TITLE III—HOUSING MATTERS

Sec. 301. Authority to guarantee adjustable rate mortgages and hybrid adjustable rate mortgages.

TITLE IV—OTHER BENEFITS MATTERS

Sec. 401. Treatment of duty of National Guard mobilized by States for homeland security or military pur-
poses.

Sec. 402. Prohibition on certain additional benef-
ts for persons committing capital crimes.

Sec. 403. Procedures for disqualification of per-
sons committing capital crimes for internment or demobilization in national cemeteries.

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

Sec. 501. Standard for reversal by Court of Ap-
peals for Veterans Claims of erro-
neous finding of fact by Board of Veterans’ Appeals.

Sec. 502. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.

Sec. 503. Authority of Court of Appeals for Vet-
 ers Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.

Sec. 504. Retroactive applicability of modifica-
tions of authority and require-
ments to assist claimants.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, when-
ner in this Act an amendment or repeal is ex-
pressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITL E I—COMPENSATION AND PEN SI ON MATT ER S

SEC. 101. CLARIFICATION OF ENTITLEMENT TO WARTIME DISABILITY COMPENSA-
TION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED MASTECTOMIES.

(a) IN GENERAL.—Section 1114(k) is amended by inserting “of half or more of the tissue” after “anatomical loss” the second place it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 102. COMPENSATION FOR HEARING LOSS IN PA IRED ORGANS.

(a) HEARING LOSS REQUIRED FOR COMPEN SA-
TION.—Section 1160(a)(3) is amended—

(1) by striking “total deafness” the first place it appears and inserting “deafness compensable to a degree of 10 percent or more”; and
SEC. 103. AUTHORITY FOR PRESUMPTION OF SERVICE CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 is amended by adding at the end the following new section:

"§1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who served on active military, naval, or air service during a period specified by the Secretary under subsection (b)(1) and was assigned during the period of such service to a military occupational specialty or equivalent described in subsection (b)(2) shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such condition during service, as the case may be, during the period of such service.

(b)(1) A period referred to in subsection (a) is a period, if any, that the Secretary determines in regulations prescribed under this section—

(A) during which audiometric measures were consistently not adequate to assess individual hearing threshold shift; or

(B) with respect to service in a military occupational specialty or equivalent described in paragraph (2), during which hearing conservation measures to prevent individual hearing threshold shift were unavailable or provided insufficient protection for members assigned to such military occupational specialty or equivalent.

(2) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service were likely exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

(c) For determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 103(c) of the Veterans Benefits Improvement Act of 2002.

(d)(1) Not later than 60 days after the date on which the Secretary receives the report referred to in paragraph (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both of individuals assigned to each military occupational specialty or equivalent, and during each period, identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent, or both, to which individuals were or were likely to be exposed during such period to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that part of the report referred to in paragraph (d)(1), and if such hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue proposed regulations setting forth the Secretary's determination.

(3) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that part of the report referred to in paragraph (d)(1), and if such hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

(A) publish the determination in the Federal Register; and

(B) submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

"(4) In any case under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit may be paid under this section for any month that begins before that date.

(2) The table of sections at the beginning of chapter 11 is amended by inserting after the item relating to section 1118 the following new item:

"1119. Presumption of service connection for hearing loss associated with particular military occupational specialties.

(b) PREEMPTIVE, IRREButABLE.—Section 1119 is amended by striking "1118, or "1119" each place it appears and inserting "1118, or 1119".

(c) ASSESSMENT OF ACoustic TRAUMA ASSOCIATED WITH MILITARY OCCUPATIONAL SPECIALTIES.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection.

The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the agreement under paragraph (1), the National Academy of Sciences shall—

(A) review and assess available data on occupational hearing loss.

(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified in paragraph (B), determine—

(i) how much exposure to such form of acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, occurs immediately or delayed onset; (III) cumulative; (IV) progressive; or (V) any combination of subclauses (I) through (IV).

(D) review and assess the completeness and adequacy of data of the Department of Veterans Affairs pertaining to hearing threshold shift in a representative sample of individuals who were discharged or released from service in the Armed Forces following World War II, the Korean conflict, and the Vietnam era, and in peacetime during the period from the end of the Vietnam era to the beginning of the Persian Gulf War, and during the Persian Gulf War, with such sample to be selected so as to reflect an appropriate distribution of individuals among the various Armed Forces;

(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service were or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both, to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that part of the report referred to in paragraph (d)(1), the Department of Defense on hearing loss, tinnitus, or both, to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs; and

(3) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that part of the report referred to in paragraph (d)(1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

(4) For purposes of paragraph (2)(D), the terms "World War II", "Korean conflict", "Vietnam era", and "Persian Gulf War" have the meanings given such terms in section 101 of title 38, United States Code.

"(d) REPORT ON ADMINISTRATION OF BENEFITS FOR HEARING LOSS AND TINNITUS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

(B) Of the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(D) The number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

SEC. 104. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 is amended by striking "$1,000" and inserting "$1,000, as adjusted from time to time under subsection (e)".

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

"(c) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefits amounts payable under title II of the Social Security Act under title II of the Social Security Act (42 U.S.C. 415(i)) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i))."

"(d) BEGINNING DATE.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on the date

""
of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2002.

(d) EFFECT OF LUMP SUM FOR PERIOD BETWEEN ACT OF VALOR AND COMMENCEMENT OF SPECIAL PENSION.—(1) The Secretary of Veterans Affairs shall pay, in a lump sum, to each person who acquires for consideration the right to receive special pension under laws for eligibility for special pension in effect at the beginning of such month.

SEC. 105. APPROPRIATIONS OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS ON FUTURE RECEIPTS OF BENEFITS.

(a) IN GENERAL.—Section 3501(a) is amended—

(1) by inserting “(1)” after “(a)”;

(2) by designating the last sentence as paragraph (2) and indenting such paragraph, as so designated, two tabs from the left margin; and

(3) by adding at the end the following new paragraph:

“(2) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (a) is also prohibited.”

(c)(i) Any person who enters into an agreement that is prohibited under subparagraph (a), or an agreement or arrangement that is prohibited under subparagraph (b), shall be fined under title 18, imprisoned for not more than one year, or both.

“(ii) This subparagraph does not apply to a beneficiary with respect to compensation, pension, or dependency and indemnity compensation to which the beneficiary is entitled under a law administered by the Secretary.”.

(b)—Paragraph (3) of section 3501(a) of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to any agreement or arrangement entered into before the date of the enactment of this Act.

(c) OUTFRONT.—The Secretary of Veterans Affairs shall carry out a program of outreach to inform veterans and other recipients or potential recipients of compensation, pension, or dependency and indemnity compensation benefits under the laws administered by the Secretary of the prohibition on the assignment of such benefits under law.

(2) The Secretary shall develop and implement various schemes to evade the prohibition, and means of avoiding such schemes.

SEC. 106. EXTENSION OF INCOME VERIFICATION AUTHORITY.

(a) TITLE 38, UNITED STATES CODE.—Section 5317(g) of title 38, United States Code (as added by subsection (b) of this section), is amended by striking “September 30, 2008” and inserting “September 30, 2011”.

(b) INTERNAL REVENUE CODE.—Section 6103(d)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking “September 30, 2003” and inserting “September 30, 2011”.

TITLE II—EDUCATION MATTERS

SEC. 201. THREE-YEAR INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES.

(a) INCREASE IN AMOUNT.—Section 3674(a)(4) is amended by inserting “fiscal years 2003, 2004, and 2005” after “$18,000,000” and inserting “fiscal years 2003, 2004, and 2005, $18,000,000”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 202. CLARIFYING IMPROVEMENT OF VARIOUS EDUCATION AUTHORITIES.

(a) ELIGIBILITY OF CERTAIN ADDITIONAL VETERAN EMERGENCY VETERANS.—Section 3011(a)(1)(C)(ii) is amended by striking “on”. or “and”.

(b) ACCELERATED PAYMENT OF ASSISTANCE FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.—(1) Subsection (b)(1) of section 3014A is amended by striking “employment in a high technology industry” and inserting “employment in a high technology occupation in a high technology industry”.

(2)(A) The first sentence of section 3014A is amended to read as follows: “$3014A. Accelerated payment of basic educational assistance for education leading to employment in a high technology occupation in high technology industry.”

(B) The table of sections at the beginning of chapter 30 is amended by striking the item relating to section 3014A and inserting the following new item:

“3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.”

(c) SOURCE OF FUNDS FOR INCREASED USAGE OF ENTITLEMENT UNDER ENTITLEMENT TRANSFER AUTHORITY.—Section 3035(b) is amended—

(1) in paragraph “(2)” of subparagraph (C), by inserting “paragraph (2) and (3) of this subsection,” and inserting “paragraphs (2), (3), and (4),”;

and

(2) by adding at the end the following new paragraph:

“(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to the Department of Veterans Affairs under section 2629 of this title shall be made from the Department of Defense Education Benefits Fund established under section 2606 of title 10 or from appropriations made to the Department of Transportation, as appropriate.”.

(d) LICENSING OR CERTIFICATION TESTS.—(1) Section 3222(c)(1) is amended by striking “a licensing” and inserting “a particular licensing”.

(2) Section 3680 is amended—

(A) in subsection (b)(1)(B), by inserting “and with such other standards as the Secretary may prescribe,” after “practices,”; and

(B) in subsection (c)(1)(A), by inserting “and with such other standards as the Secretary may prescribe,” after “practices.”.

(3) Section 3680(c)(1)(B) is amended by striking “the test” and inserting “such test, or a test to certify or license in a similar or related occupation.”

(e) PERIOD OF ELIGIBILITY FOR SURVIVORS’ AND DEPENDENTS’ ASSISTANCE.—Section 3512(a) is amended—

(1) in paragraph (3), by striking “paragraph (4)” in the matter preceding subparagraph (A) and inserting “paragraph (4) or (5)”;

(2) by redesigning paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement to the beginning of the month in which the person’s entitlement shall be the date of the Secretary’s decision that the parent has a service-connected total disability due to the parent’s death was service-connected, whichever is applicable;” and

(4) in paragraph (6), as so redesignated, by striking “paragraph (4)” and inserting “paragraph (5)”.

TITLE III—HOUSING MATTERS

SEC. 301. AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES AND HYBRID ADJUSTABLE RATE MORTGAGES.

(a) THREE-YEAR EXTENSION OF AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES.—Subsection (a) of section 3707 is amended by striking “during fiscal years 1992, 1993, and 1995” and inserting “through fiscal year 2005”.

(b) AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.—That section is further amended—

(1) in subsection (b), by striking “Interest rate adjustment provisions” and inserting “Except as provided in subsection (c)(1), interest rate adjustment provisions”;

(2) by redesigning subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

“(c) Adjustable rate mortgages that are guaranteed under this section shall include adjustable rate mortgages (commonly referred to as ‘hybrid adjustable rate mortgages’) having interest rate adjustment provisions that—

“(1) are not subject to subsection (b)(4);

“(2) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

“(3) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the loan term described in the following paragraph;

“(4) comply in such initial adjustment, and any subsequent adjustment, with paragraphs (2) through (4) of subsection (b).”.

(4) by inserting before the period the following: “, and shall include in any rulemaking otherwise required to implement such authority.”

TITLE IV—OTHER MATTERS

SEC. 401. TREATMENT OF DUTY OF NATIONAL GUARD MOBILIZED BY STATES FOR HOMELAND SECURITY ACTIVITIES AS MILITARY SERVICE FOR LEGION ROLLERS AND SAILORS’ CIVIL RELIEF ACT OF 1940.

Section 301(1) of the Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking “and all” and inserting “all”;

and

(B) by inserting before the period the following: “, and all members of the National Guard on service described in the following sentences”; and

(2) in the second sentence, by inserting before the period the following: “, and shall include service in the National Guard, pursuant to a call to duty by the Governor of any State, upon the request of a Federal law enforcement agency and with the concurrence of the Secretary of Defense, to perform full-time duty under section 502(f) of title 32, United States Code, for purposes of carrying out homeland security activities”. 
SEC. 402. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) PRESIDENTIAL MEMORIAL CERTIFICATE.—Section 112 is amended by adding at the end the following new subsection:

"(c) A certificate may not be furnished under the provisions of subsection (a) on behalf of a deceased person described in section 2411(b) of this title.".

(b) FLAG TO Drape CASKET.—Section 2301 is amended—

(1) by redesigning subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

"(g) A flag may not be furnished under this section on behalf of a deceased person described in section 2411(b) of this title."

(c) HEADSTONE OR MARKER FOR GRAVE.—Section 2306 is amended by adding at the end the following new subsection:

"(g)(1) A flagstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.

The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 403. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERIM OR MEMORIALIZATION IN NATIONAL CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking "The provision" and inserting "In the case of a person described in subsection (b)(1) or (b)(2), the prohibition;"; and

(2) by striking "or finding under subsection (b)" and inserting "referring to subsection (b)(1) or (b)(2), as the case may be."

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

SEC. 501. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.

(a) STANDARD FOR REVERSAL.—Paragraph (4) of subsection (a) of section 7251 is amended by striking "if the finding is clearly erroneous" and inserting "if the finding is adverse to the claimant, the determination that the finding is unsupported by substantial evidence of record, taking into account the Secretary's application of section 7107(b) of this title."

(b) SCOPE OF AUTHORITY.—That subsection is further amended—

(1) in the matter preceding paragraph (1), by striking "this chapter" and inserting "section 7251 of this title"; and

(2) in paragraph (4), as amended by subsection (a) of this section, by inserting "or reverse" after "set aside.

(c) LETTERS RELATING TO FINDINGS OF MATERIAL FACT.—That section is further amended by adding at the end the following new subsection:

"(e) A determination on a finding of material fact under subsection (a)(4), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(a)."

"(f) A determination on a finding of material fact under subsection (a)(4) shall specify the evidence or material on which the Court relied in making such determination.

"(g) APPlicability.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act; or

"(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of enactment of this Act, in any amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

SEC. 502. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims, as defined by section 3 of title 38, United States Code, for attorneys representing veterans under section 7252(d) of title 38, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

SEC. 503. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

(a) RETROACTIVE APPLICABILITY.—Except as specifically provided otherwise, the provisions of sections 5102, 5103, and 5125 of title 38, United States Code, as amended by section 3 of the Veterans Claims Assistance Act of 2000 (Public Law 106-475; 114 Stat. 2096), apply to any claim—

(1) filed on or after November 9, 2000; or

(2) filed before November 9, 2000, and not final as of that date.

(b) REAPPLICATION OF CERTAIN CLAIMS.—If the United States Court of Appeals for Veterans Claims, the United States Court of Appeals for the Federal Circuit, or the Supreme Court renders a decision on a period beginning on April 24, 2002, and ending on the date of the enactment of this Act holding that section 3(a) of the Veterans Claims Assistance Act of 2000 is not applicable to a case covered by a decision, because such section 3(a) was not intended to be given retroactive effect, the Secretary of Veterans Affairs shall, upon request of the claimant or on the Secretary’s own motion, order the claim adjudicated under chapter 51 of such title, as amended by the Veterans Claims Assistance Act of 2000, as if Board of Veterans’ Appeals denied the denial of the claim concerned had not occurred. Amendment the title to read as follows:—A bill to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, September 26, 2002 at 9:30 a.m. in SD–406 to conduct a business meeting to consider the following items:

Legislation:

S. 688, the Ombudsman Reauthorization Act of 2001

S. 2065, the Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2002

S. 2715, a bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001

S. 2790, Restore the Apalachicola River Ecosystem Act of 2002

S. 2847, Crane Conservation Act of 2002

S. 2897, the Marine Turtle Conservation Act of 2002

S. 2928, the Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002

S. 2975, a bill to authorize the project for hurricane and storm damage reduction, state of Florida, for Pensacola Bay, Mobile Bay, Mississippi River and Tributaries

S. 2978, a bill to modify the project for flood control, Little Calumen River, IN

S. 2982, a bill to authorize a project for navigation, Chickamauga Lock and Dam, TN

S. 2983, a bill to authorize a project for ecosystem restoration at Smith Island, MD

S. 2985, the Anthrax Cleanup Assistance Act of 2002

S. 2999, a bill to authorize the project for environmental restoration, Pine Flat Dam, Fresno County, California

H.R. 1070, the Great Lakes Legacy Act of 2002

H.R. 2956, a bill to direct the Secretary of the Army to convey a parcel of land to Chattahoochee County, GA

H.R. 3098, the North American Wetlands Conservation Reauthorization Act of 2002

H.R. 4044, a bill to authorize the Secretary of the Interior to provide assistance to the State of Maryland for implementation of a program to eradicate nutria and restore marshland damaged by nutria

H.R. 4272, the Dam Safety and Security Act of 2002

H.R. 4907, a bill to authorize the Secretary of the Interior to acquire the property in Cecilia City, Maryland, known as Garrett Island, and inclusion in the Blackwater National Wildlife Refuge

Courthouse Naming:

S. 2332, a bill to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Yorktown, Virginia as the "Nathaniel R. Jones Federal Building And United States Courthouse".

Resolution:

Committee Resolution for U.S. Army Corps of Engineers’ study in the Chesapeake Bay Watershed, MD

Committee Resolution for the U.S. Army Corps of Engineers’ study in Fall River Harbor, MA

Committee Resolution for the U.S. Army Corps of Engineers’ study in Elliott Bay, WA
September 26, 2002

CONGRESSIONAL RECORD — SENATE

S9549

Numerous building and lease resolutions.

Other Items:

Subpoenas for new source review documentation to the Environmental Protection Agency and the Department of Energy.

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

COMMITTEE ONFOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 26, 2002 at 10:30 a.m. to hold a hearing on Iraq.

WITNESSES: The Honorable Madeleine K. Albright, Former Secretary of State, Chair- man, National Democratic Institute, Washing- ton, DC; The Honorable Henry A. Kisin- ger, Former Secretary of State, Kissinger Associates, Inc., New York, NY.

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

COMMITTEE ONFOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet with permission of the Senate on Thursday, September 26, 2002 at 2:30 a.m. to hold a hearing on Iraq.

AGENDA

Witness: The Honorable Colin L. Powell, Secretary of State, Washington, DC.

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

COMMITTEE ONHEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Internet Education: Exploring the Benefits and Challengers of Web-Based Education during the session of the Senate on Thursday, September 26, 2002, at 10:00 a.m. in SD-430.

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 Thursday, September 26, 2002, at 10:00 a.m. in Room 465 of the Russell Senate Office Building to conduct an oversight hearing on Intra-tribal Leadership Disputes and Tribal Governance.

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 Thursday, September 26, 2002 in Dirksen Room 106 at 10:00 a.m. Panel I: The Honorable John W. Warner, United States Senator (R-VA); The Honorable Charles E. Grassley, United States Senator (R-IA); The Honorable Tom Harkin, United States Senator (D-IA); The Honorable Phil Gramm, United States Senator (R-TX); The Honorable Kay Bailey Hutchison, United States Senator (R-TX); The Honorable Robert Torricelli, United States Senator (D-NJ); The Honorable George Allen, United States Senator (R-VA); The Honorable Jon Corzine, United States Senator (D-NJ).

Panel II: Miguel Estrada, nominated to the D.C. Circuit.

Panel III: Stanley Chesler, to be United States District Court Judge for the District of New Jersey; Daniel Hovland, to be United States District Court Judge for the District of North Dakota; James Kinkeade, to be United States District Court Judge for the Northern District of Texas; Linda Reade, to be United States District Court Judge for the Northern District of Iowa; Freda Wolfson, to be United States District Court Judge for the District of New Jersey.

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 Thursday, September 26, 2002 at 10:00 a.m. to hold a joint hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2001.

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

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, September 26, 2002 from 10:00 a.m.—12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1040 through 1046 and 1048 through 1051; that the nominations be confirmed, the motions to reconsider be laid upon the table, with no intervening action or debate.

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

MEASURE READ THE FIRST TIME—S.J. RES. 45

Mr. REID. Mr. President, S.J. Res. 45 was introduced earlier today by Senators DASCHLE and LOTT and is now at the desk. I therefore ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will report the joint resolution by title for the first time. The legislative clerk read as follows:

A joint resolution (S.J. Res. 45) to authorize the use of United States Armed Forces against Iraq.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request on behalf of the minority.

The ACTING PRESIDENT pro tempore. Objection having been heard, the joint resolution will receive its second reading on the next legislative day.

MEASURE READ THE FIRST TIME—S. 3009

Mr. REID. Mr. President, S. 3009 was introduced earlier today by Senator WELLSTONE and others and is now at the desk. I ask for its first reading.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Marc A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

David Wenzel, of Pennsylvania, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Barbara Gilchrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Marc A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now return to legislative session.

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 111

Mr. REID. Mr. President, I ask unanimous consent when the Senate receives from the House H.J. Res. 111, a continuing resolution to fund the Government at 2002 levels and terms therein until October 4, that the joint resolution be considered read three times, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

MEASURE READ THE FIRST TIME—S. 3009

Mr. REID. Mr. President, S. 3009 was introduced earlier today by Senators DASCHLE and LOTT and is now at the desk. I therefore ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will report the joint resolution by title for the first time. The legislative clerk read as follows:

A joint resolution (S. Res. 45) to authorize the use of United States Armed Forces against Iraq.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request on behalf of the minority.

The ACTING PRESIDENT pro tempore. Objection having been heard, the joint resolution will receive its second reading on the next legislative day.
Mr. REID. Mr. President, I ask unanimous consent that the list of conferees for the following:

**AMENDMENT NO. 4837**

(Purpose: To propose a substitute)

Strike all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2002.”

**SEC. 2. INCREASE IN RATIOS OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective as of December 1, 2002, increase the dollar amounts in effect under section 1114 of title 38, United States Code, by the same percentage as the percentage by which the Social Security Act is increased for the payment of disability compensation and dependency and indemnity compensation for the year 2003, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to this section.

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to paragraph (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code, shall be increased by the percentage by which the Social Security Act is increased for the year 2003.

(2) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1112 of such title shall be increased by the percentage by which the Social Security Act is increased for the year 2003.

(3) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under section 1311(3) of such title shall be increased by the percentage by which the Social Security Act is increased for the year 2003.

(4) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title shall be increased by the percentage by which the Social Security Act is increased for the year 2003.

**ARTICLE V. SUPPLEMENTS TO VETERANS’ COMPENSATION.**

Mr. REID. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to which the Senate异议.

The vote on the Senate amendment was agreed to.

**S. 2237.**

The Senate proceeded to consider the bill, which had been reported from the Committee on Veterans’ Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

**VETERANS’ COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2002**

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1311(a) and 1314 of such title.

(9) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2002.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2002, as a result of a determination under section 215 of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

**S. 2238.**

The bill (S. 4085), as amended, was read the third time and passed.

The amendment to the title was agreed to.
[SEC. 2. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.]

(a) HEARING LOSS REQUIRED FOR COMPENSATION.—(Sec. 1118(a)(3) of title 38, United States Code, is amended by striking “total” both places it appears.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

[SEC. 3. AUTHORITY FOR PRESUMPTION OF SERVICE-connection FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.]

(a) In General.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

"§1119. Presumption of service connection for hearing loss associated with particular military occupational specialties.

(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who while on active military, naval, or air service was assigned to a military occupational specialty or equivalent described in subsection (b) shall be considered to have been incurred by such veteran as the result of personal injury, notwithstanding that there is no record of evidence of such hearing loss or tinnitus, as the case may be, during the period of such service.

(b) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 3(c) of the Veterans Hearing Loss Compensation Act of 2002.

(1) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any hearing loss, tinnitus, or both of a veteran who while on active military, naval, or air service was assigned to a military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to such military occupational specialty or equivalent identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue proposed regulations setting forth the Secretary’s determination.

(3) If the Secretary determines under paragraph (1) that a presumption of service connection is not warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

(A) publish the determination in the Federal Register; and

(B) submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

(e) Any regulations issued under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit payments shall be paid under such regulations for any month that begins before that date.

(2) The table of sections at the beginning of chapter 11 of title 11, is amended by inserting after the section relating to section 1118 the following new item:

"1119. Presumption of service connection for hearing loss associated with particular military occupational specialties."

(b) PRESUMPTION REPEAL.—Section 1113 of title 38, United States Code, is amended by striking "or 1118" each place it appears and inserting "or 1119, or 1119."
TITLE IV—OTHER BENEFITS MATTERS

Sec. 401. Treatment of duty of National Guard mobilized by States for homeland security activities as military service for purposes of Sections 1110 and 1113 of Title 38, United States Code.

Sec. 402. Prohibition on certain additional benefits for persons committing capital offenses under the laws administered by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force.

Sec. 403. Procedures for disqualification of persons committing capital crimes for interment or memorialization in Arlington National Cemetery.

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

Sec. 501. Standard for reversal by Court of Appeals for Veterans Claims of erroneous findings of fact by Board of Veterans’ Appeals.

Sec. 502. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.

Sec. 503. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.

Sec. 504. Retroactive applicability of modifications of decisions or orders of the Court of Appeals for Veterans Claims.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

SEC. 101. CLARIFICATION OF ENTITLEMENT TO SERVICE-CONNECTED COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED BREAST REDUCTION MAJESTECTIONS.

(a) In general.—Section 1114(h) is amended by inserting “of half or more of the tissue” after “anatomical loss” the second place it appears.

(b) Effective date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 102. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

(a) Hearing loss required for compensation.—Section 1106(a)(3) is amended by inserting “total” “both” places it appears.

(b) Effective date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 103. AUTHORITY FOR PRESUMPTION OF SERVICE CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

(a) In general.—(1) Subchapter II of chapter 11 is amended by adding at the end the following new section:

“§1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

“(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both are presumed to be incurred in active military service if the individual:

(1) served as a member of a military occupational specialty in the active military, naval, or air service, during a period of service prescribed by the Secretary under subsection (b)(1); or

(2) was exposed to acoustic trauma as to result in permanent hearing loss, tinnitus, or both, as a result of individual hearing threshold shift as to result in permanent hearing loss, tinnitus, or both.

(b) Presumption rebuttable.—Section 1113 is amended by striking “or 1118” each place it appears and inserting “1118, or 1119”.

(c) Assessment of acoustic trauma associated with various military occupational specialties.—(1) The Secretary of Veterans Affairs shall enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection. The Secretary shall seek to enter such agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the agreement under paragraph (1), the National Academy of Sciences shall:

(A) conduct research and assess available data on occupational hearing loss;

(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

(i) determine how much exposure to such form of acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(I) immediate or delayed onset;

(II) cumulative;

(III) progressive; or

(IV) any combination of subclauses (I) through (III);

(D) review and assess the completeness and adequacy of data of the Department of Veterans Affairs and the Department of Defense on hearing threshold shift in a representative sample of individuals who were discharged or released from service in the Armed Forces following World War II, the Korean conflict, and the Vietnam Era, and in peacetime during the period from the end of the Vietnam era to the beginning of the Persian Gulf War, and during the Persian Gulf War, with such sample to be selected so as to reflect an appropriate distribution of individuals among the various Armed Forces;

(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service were or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs; and

(F) assess when, if ever—

(i) audiometric measurements became adequate to evaluate individual hearing threshold shift; and

(ii) hearing conservation measures to prevent individual hearing threshold shift were available and provided to all mem-

bers assigned to such military occupational specialty or equivalent identified under subparagraph (E).

Not later than 180 days after the date of the entry into the agreement referred to in paragraph (1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

(G) For purposes of paragraphs (2)(D) and (3), the terms “World War II”, “Korean conflict”, “Vietnam era”, and “Persian Gulf War” have the meanings given such terms in section 101 of title 38, United States Code.

(H) Report on administration of benefits for hearing loss and tinnitus.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report on the administration of the benefits for hearing loss and tinnitus.
report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both;

(B) Of the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid in such year for each such item;

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEs);

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans treated during each year, and the cost of furnishing such hearing aids.

SEC. 104. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 is amended by striking “$900” and inserting “$1,000, as adjusted from time to time under section 3102(a)(2) of title 38.”

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

“(c) EFFECTIVE DATE.—Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(s)).”

(c) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by subsection (b) of this section shall take effect on or after the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2002.

(d) PAYMENT OF LUMP SUM FOR PERIOD BETWEEN ACT OF VALOR AND COMMENCEMENT OF SPECIAL PENSION.—(1) The Secretary of Veterans Affairs shall pay, in a lump sum, to each person who is in receipt of special pension payable under section 1562 of title 38, United States Code, an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the month preceding the month in which the person’s special pension in fact commenced.

(2) For each month of a period referred to in paragraph (1), the amount of special pension payable under the law shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension during such month under laws for eligibility for special pension in effect at the beginning of such month.

SEC. 105. APPLICABILITY OF PROHIBITION ON AGREEMENTS TO THAN PROVISIONS TO AGREEMENTS ON FUTURE RECEIPTS OF VETERANS BENEFITS.

(a) IN GENERAL.—Section 5301(a)(1) is amended—

(1) by inserting “(i)” after “(a)”; and

(2) by designating the last sentence as paragraph (2) and indenting such paragraph, as so designated, two ems from the left margin; and

(3) by adding at the end the following new paragraph:

“(3)(A) For purposes of this subsection, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, whether by payment from the beneficiary to such other person, deposit into an account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

“(B) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited.

“(C)(i) Any person who enters into an agreement that is prohibited under subparagraph (A), or an agreement or arrangement that is prohibited under subparagraph (B), shall be fined under title 18, imprisoned for not more than one year, or both.

“(ii) This subparagraph does not apply to a beneficiary with respect to compensation, pension, or dependency and indemnity compensation to which the beneficiary is entitled under a law administered by the Secretary.”.

(b) EFFECTIVE DATE.—Subsection (a) of section 3674(a)(4) is amended by striking “$1,000, as adjusted from time to time under section 3102(a)(2) of title 38.”

SEC. 106. EXTENSION OF INCOME VERIFICATION AUTHORITY.

(a) TITLE 38 OF UNITED STATES CODE.—Section 5317(g) is amended by striking “September 30, 2008” and inserting “September 30, 2011”.

(b) INTERNAL REVENUE CODE.—Section 6103(q)(7) of the Internal Revenue Code of 1986 is amended by striking “September 30, 2003” and inserting “September 30, 2011”.

TITLE II—EDUCATION MATTERS

SEC. 201. THREE-YEAR INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE AGENCIES FOR ADMINISTRATIVE EXPENSES.

(a) INCREASE IN AMOUNT.—Section 3674(a)(4) is amended by inserting in the first sentence by striking “fiscal years 2001 and 2002, $14,000,000” and inserting “fiscal years 2003, 2004, and 2005, $18,000,000.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 202. CLARIFYING IMPROVEMENT OF VARIOUS EDUCATION AUTHORITIES.

(a) ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.—Section 3211(a)(1)(C)(ii) is amended by inserting “as described in such paragraph that is entered into on or after the date of the enactment of this Act.”

(b) AUTHORITY TO ACCELERATE PAYMENT OF ASSISTANCE FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.—(1) Subsection (b)(1) of section 3014A is amended by striking “employment in a high technology industry” and inserting “employment in high technology occupation in high technology industry”.

(2) The heading for section 3014A is amended to read as follows:

“3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.”

(c) SOURCE OF FUNDS FOR INCREASED USAGE OF ENTITLEMENT UNDER ENTITLEMENT TRANSFER AUTHORITY.—Section 3222(c)(1) is amended by striking “a licensing” and inserting “a particular licensing”.

(d) LICENSING OR CERTIFICATION TESTS.—(1) Section 3222(c)(1) is amended by striking “the test” and inserting “such test”. and inserting paragraphs (2), (3), and (4);”;

(2) Section 3232(c) is amended by striking “A” in subsection (b)(1)(B), by inserting “and with such other standards as the Secretary may prescribe,” after “practices,”; and

(3) Section 3232(d)(1)(B) is amended by striking “with such other standards as the Secretary may prescribe,” after “practices,”.

SEC. 301. AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES.

(a) TITLE 38 OF UNITED STATES CODE.—Section 3014A is amended—

(1) in paragraph (3), by striking “in high technology occupation in a high technology industry”;

(2) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(3) by inserting after paragraph (3) the following new paragraph:

“(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person’s entitlement shall be the date of the Secretary’s decision that the person has a service-connected total disability permanent in nature, or that the parent’s death was service-connected, whichever is applicable;”;

and

(4) in paragraph (6), as so redesignated, by striking “paragraph (4)” and inserting “paragraph (5)”.

TITLE III—HOUSING MATTERS

SEC. 301. AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES AND HYBRID ADJUSTABLE RATE MORTGAGES.

(a) THREE-YEAR EXTENSION OF AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGE.—Subsection (a) of section 3707 is amended by striking “during fiscal years 1993, 1994, and 1995” and inserting “through fiscal year 2005”.

(b) AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.—That section is further amended—
SEC. 501. STANDARD BY REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.

(a) Standard. —

(1) subsection (a) of section 7261 is amended by striking “if the finding is clearly erroneous” and inserting “if the finding is clearly erroneous and” —

(b) Retroactivity. —

(1) in the matter preceding paragraph (1), by striking “this chapter” and inserting —

(c) Additional Authority. —

(1) in the first sentence —

(2) pending with the United States Court of Appeals for Veterans Claims, the United States Court of Appeals for the Federal Circuit, or the Supreme Court renders a decision during the period beginning on April 24, 2002, and ending on the date of the enactment of this Act, but in which a final decision has not been made under section 2411(a) of title 38, United States Code, as amended by section 3 of the Veterans Claims Assistance Act of 2000 (Public Law 106-475; 114 Stat. 2096), apply to any claim —

(1) filed on or after November 9, 2000; or

(2) pending with the United States Court of Appeals for Veterans Claims, the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 502. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) Review. —

(1) Subsection (a) of section 7292 is amended in the first sentence by inserting —

(b) Application. —

(1) filed with the United States Court of Appeals for Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 503. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 38, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the authority of the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.
S. 2377, the proposed “Veterans Benefits Improvement Act of 2002,” as modified by a manager’s amendment which I developed with the committee’s ranking member, Senator SPECTER. I will describe the provisions of the amendment in a moment.

The pending omnibus measure would touch many parts of veterans’ lives, from increasing pensions for those who have earned the Medal of Honor to ensuring that veterans’ appeals get more than a cursory review. I thank Ranking Member SPECTER and his staff for their significant contributions to a bill I believe will substantially improve the benefits provided to those who have served our Nation.

S. 2237 as reported, which I will refer to as the “committee bill,” improves numerous veterans’ benefits. I will highlight some of the provisions of which I am most proud.

Congress last year authorized VA to offer voluntary compensation to women who had lost one or both breasts, including through surgery, as a part of their military service. VA subsequently released regulations that limited eligibility for this benefit to women who had suffered complete loss of an arm through amputation or radical mastectomy. Even if such a restriction does not influence medical decisions, it fails to acknowledge that tissue-sparing treatments still create physical, emotional, and financial challenges that have been well-documented. In some small measures, delays between the dates of the recipient’s act of valor and the actual awarding of the Medal of Honor have resulted in lower aggregate amounts of special pension, based only on differences in the time available to a veteran to file a claim. Section 101 of the committee bill would increase the Medal of Honor special pension from $600 to $1,000. Beginning next year, the pension amount would be adjusted annually with inflation. Finally, it would provide for a one-time, lump-sum payment in the amount of pension the recipient would have received between the date of the act of valor and the date that the recipient’s pension actually commenced. I thank Senators HUTCHINSON and TERRY for their leadership on this issue, and for assisting the committee in reaffirming our commitment to these heroes.

Section 101 of the committee bill would extend certain protections currently offered to National Guard members called up for national defense to include those who may have been called up for homeland security activities but not federalized, The Soldiers’ and Sailors’ Civil Lawful Claims Act of 1940, or “SCCRA,” protects active duty servicemembers and their families from evictions, foreclosures, and certain legal judgements while they serve the Nation in federally funded national defense missions. However, SCCRA protections do not cover National Guard members called up under title 32 of the United States Code, which places the servicemembers under the command of their State Governors.

Following the attacks of September 11, many National Guard members activated under title 32 guarded commercial airports at the request of the Federal Government, serving for 4 to 6 months. Although they served a national mission, their title 32 status denied them SCCRA protections. Furthermore, the National Defense Authorization Act for Fiscal Year 2003, as passed by the Senate, specifically allows National Guard members to be called up under national security duty under title 32. Should this provision be enacted into law, it is likely that National Guard members will be called upon more frequently to serve in this status.

Section 401 of the committee bill would expand SCCRA protections to include National Guard members serving full-time for homeland security purposes under title 32 upon an order of the Governor of a State, by request of the head of a Federal law enforcement agency, and with the concurrence of the Secretary of Defense. As America relies increasingly on the National Guard and reservists to support its all-volunteer forces, we must be sure that these heroic servicemembers can focus on their duties when they leave home to serve their Nation.

Sections 501 and 502 of the committee bill would ensure that veterans receive a full judicial review when appealing claims denied by VA.

A long-standing tenet of veterans law is that the veteran receives the “benefit of the doubt.” “Benefit of the doubt” rule is unique in administrative law and states that when the evidence is in equipoise the benefit of the doubt must be given to the veteran, recognizing the tremendous sacrifices made by the men and women who have serve in our Armed Forces. A number of veterans service organizations have expressed concern that the current appellate process is overly deferential to VA findings of fact that are adverse to veteran claimants. Specifically, these groups argue that the “clearly erroneous” standard of review set forth by the U.S. Court of Appeals for Veterans Claims, CAVC, when reviewing Board of Veterans Appeals, BVA, cases results in veteran claims receiving only cursory review on appeal, not allowing for full application of the “benefit of the doubt” rule.

Section 501 of the committee bill would change the standard of review the CAVC applies to BVA findings of fact from “clearly erroneous” to “un-supported by substantial evidence” in support of the application of the “benefit of the doubt” provision. This would clearly instruct the court to perform a searching review of BVA findings of fact, yet allow the CAVC to give deference to BVA findings based on specific evidence. This change in section 502 of this important bill would improve appellate review of veterans claims by expanding the Federal Circuit’s authority to review CAVC decisions based on rules of law that are derived from a specific statute or regulation.

The bill pending before the Senate today comprehensively any CAVC decisions of law that adversely affect appellants.
Section 503 of the committee bill would allow nonattorney practitioners admitted to practice before the CAVC without the signature of a supervising attorney, such as veterans service organization representatives, to be awarded fees under the Equal Access to Justice Act. Currently, attorneys and nonattorney practitioners supervised by attorneys who represent claimants that satisfy certain statutory requirements may receive compensation for their services pursuant to the EAJA. This would allow well-deserved compensation to organizations that provide invaluable assistance to veterans.

The Veterans Claims Assistance Act of 2000, VCAA, required VA to take very specific steps to help veterans prepare their benefits claims, such as informing claimants of medical or lay evidence or helping them obtain evidence necessary to substantiate a claim. The Federal circuit, in two recent decisions—Dyment v. Principi and Bernabe v. Principi—found that certain provisions of the VCAA pertaining to VA’s duty to assist cannot be applied retroactively to claims pending at the time of enactment. Section 504 states explicitly that VA’s duty to assist shall not be applied retroactively to cases that were ongoing either at the various adjudication levels within VA or pending at the applicable Federal courts prior to the date of VCAA’s enactment.

Section 504 of the committee bill would make it clear that VA’s duty to assist can be applied retroactively to cases that were either ongoing within VA or pending at the applicable Federal courts prior to the date of VCAA’s enactment. This clarification would give full force to the congressionally mandated duty to assist claimant veterans, and provide crucial assistance to the men and women who sacrificed so much in service to our Nation.

I now turn to the manager’s amendment, which would modify a section of the committee bill on evaluating service-connected hearing loss.

Section 102 of the committee bill, as modified by the manager’s amendment, would address an issue of fairness for veterans who have both service-connected and non-service-connected hearing loss. Currently, when evaluating veterans’ service-connected disabilities in paired organs or extremities—such as kidney, lung, foot, hand—VA is authorized to consider any degree of damage to both organs, even if only one resulted from military service. However, total deafness in both ears is required for special consideration of hearing loss.

The committee bill would eliminate the “total deafness” requirement, allowing VA to consider partial non-service-connected hearing loss in one ear when rating disability for veterans with at least 10 percent compensation for service-connected hearing loss in the other ear. This change would mirror exceptions made for other “paired” organs and extremities and would help ensure fair compensation for veterans whose hearing has been more greatly impaired by service than it would have been had they not served.

In conclusion, I urge my colleagues to support these improvements to veterans benefits. In light of our increased military commitments abroad and on American soil—this represents a critical bipartisan commitment to our Nation’s Veterans.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The amendment to the title was agreed to.

The bill (S. 2237), as amended, was read the third time and passed, as follows:

S. 2237
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) Short Title.—This Act may be cited as the “Veterans Benefits Improvement Act of 2002.”
(b) Table of Contents.—The table of contents for this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

Sec. 101. Clarification of entitlement to wartime disability compensation for women veterans who have service-connected disabilities.

Sec. 102. Compensation for hearing loss in paired organs.

Sec. 103. Authority for presumption of service connection for hearing loss associated with particular military occupational specialties.

Sec. 104. Modification of authorities on Medal of Honor Roll special benefits.

Sec. 105. Applicability of prohibition on assignment of veterans benefits to agreements on future receipt of benefits.

Sec. 106. Extension of income verification authority.

TITLE II—EDUCATION MATTERS

Sec. 201. Three-year increase in aggregate annual amount available for State approving agencies for administrative expenses.

Sec. 202. Clarifying improvement of various education authorities.

TITLE III—HOUSING MATTERS

Sec. 301. Authority to guarantee adjustable rate mortgages and hybrid adjustable rate mortgages.

TITLE IV—OTHER BENEFITS MATTERS

Sec. 401. Treatment of duty of National Guard mobilized by States for homeland security activities as military service under Soldiers’ and Sailors’ Civil Relief Act of 1940.

Sec. 402. Prohibition on certain additional benefits for persons committing capital crimes.

Sec. 403. Procedures for disqualification of persons committing capital crimes, forgery, counterfeiting, or memorialization in national cemeteries.

Sec. 103. Authority for Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.

Sec. 504. Retroactive applicability of modifications of authority and requirements to assist claimants.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

Sec. 501. Standard for reversal of Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans Appeals.

Sec. 502. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.

Sec. 503. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.

Sec. 504. Retroactive applicability of modifications of authority and requirements to assist claimants.
(A) during which audiometric measures were consistently not adequate to assess individual hearing threshold shift; or

(B) with respect to service in a military occupational specialty or equivalent described in paragraph (2), during which hearing conservation measures to prevent individual hearing threshold shift were unavailable or not employed by members assigned to such military occupational specialty or equivalent.

(2) A military occupational specialty or equivalent in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 103(c) of the Veterans Benefits Improvement Act of 2002.

(d) (1) Not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to each military occupational specialty or equivalent, and during each period, identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals were or were likely to be exposed during such period to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree greater than 10%.

(2) The Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection.

The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the presumption described in paragraph (1), the National Academy of Sciences shall—

(A) review and assess available data on occupational hearing loss;

(B) from such forms, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

(i) determine how much exposure to such form of acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise levels;

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(I) immediate or delayed onset;

(II) cumulative;

(III) progressive; or

(IV) any combination of subclauses (I) through (III);

(D) review and assess the completeness and adequacy of data of the Department of Veterans Affairs and the Department of Defense on hearing loss, tinnitus, or both, as the case may be, of individuals in the active military, naval, or air service.

(2) The report referred to in paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

(B) The claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

SEC. 104. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1502 is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e)

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

(1) The Secretary of Veterans Affairs shall submit to Congress a report with respect to the total amount of special pension payable under section (a) as of November 30 of each year, which shall include—

(I) the number of veterans per year; and

(ii) the number of claims for which disability compensation was awarded, set forth by—

(A) the number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both;

(B) the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

Sec. 105. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1502 is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e)

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

(1) The Secretary of Veterans Affairs shall submit to Congress a report with respect to the total amount of special pension payable under section (a) as of November 30 of each year, which shall include—

(I) the number of veterans per year; and

(ii) the number of claims for which disability compensation was awarded, set forth by—

(A) the number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both;

(B) the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

Sec. 106. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1502 is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e)

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

(1) The Secretary of Veterans Affairs shall submit to Congress a report with respect to the total amount of special pension payable under section (a) as of November 30 of each year, which shall include—

(I) the number of veterans per year; and

(ii) the number of claims for which disability compensation was awarded, set forth by—

(A) the number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both;

(B) the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.
(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension during such month under laws for eligibility for special pension, in effect at the beginning of such month.

SEC. 105. APPLICABILITY OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS ON FUTURE RECEIPT OF CERTAIN BENEFITS.

(a) In General.—Section 3301(a) is amended—

(1) by inserting “(1) after “(a)”; and

(2) by designating the last sentence as subparagraph (B) and inserting after such subparagraph, as so redesignated, the following new subparagraph:

“(B) Provided, that any agreement to assign benefits to a person who is not eligible for benefits shall be void, and the person making such agreement shall be liable for any amount paid to the person entitled to such benefits as a result of the assignment provided for in such agreement.”

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2001.

SEC. 106. EXTENSION OF INCOME VERIFICATION AUTHORITY.

(a) Title 38, United States Code.—Section 287(g) is amended by striking “September 30, 2008” and inserting “September 30, 2011.”

SEC. 402. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) PRESUMPTION ON DEATH CERTIFICATE.—Section 112 is amended by adding at the end the following new subsection:

"(c) A certificate may not be furnished under subsection (a) or (b) for the grave of a deceased person described in section 2411(b) of this title.

(b) FLAG TO DRAPE CASKET.—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) A flag may not be furnished under this section on behalf of a deceased person described in section 2411(b) of this title.

(c) HEADSTONE OR MARKER FOR GRAVE.—Section 2306 is amended by adding at the end the following new subsection:

"(g) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

"(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

"(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.

(d) EFFECTIVE DATE.

"Section 2401 is amended by adding at the end the following:

"(g)(1) A headstone or marker may not be furnished under subsection (a) or (b) for the grave of a deceased person described in section 2411(b) of this title.

"(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

"(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.

"(4) headstone or marker for grave.—Section 2306 is amended by adding at the end the following new subsection (g):

"(g) A headstone or marker may not be furnished under subsection (a) or (b) for the grave of a deceased person described in section 2411(b) of this title.

"(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

"(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.

SEC. 501. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT CONCERNED WITH A CLAIM FOR SERVICE-CONNECTED DISABILITY.

(a) STANDARD FOR REVERSAL.—Paragraph (4) of subsection (a) of section 7261 is amended by striking "(4) of subsection (a)

(b) SCOPE OF AUTHORITY.—That subsection is further amended—

(1) by striking "the finding is clearly erroneous" and inserting "the finding is clearly erroneous and undermines the substance of the evidence as to the material fact"; and

(2) by striking "or finding" under subsection (b) and inserting "and finding under" after "as a result".

(c) MATTERS RELATING TO FINDINGS OF MATERIAL FACT.—That section is further amended by adding at the end the following new subsection:

"(e)(1) In making a determination on a finding of material fact under subsection (a)(4), the Court shall review the record of proceedings before the Secretary and the Board of Veterans Appeals pursuant to section 7261.

"(2) A determination on a finding of material fact under subsection (a)(4) shall specify the evidence or material on which the Court relied in reaching its determination.

(d) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b)(2) shall apply with respect to any appeal filed with the United States Court of Appeals for Veterans Claims—

(A) on or after the date of the enactment of this Act; or

(B) before the date of the enactment of this Act, but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 502. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) REVIEW.—(1) Subsection (a) of section 7292 is amended in the first sentence by inserting "the validity of" the following:

"(A) a decision of the Court on a rule of law or of

(2) Subsection (c) of that section is amended—

(A) in the first sentence, by inserting "the validity of" the following:

"(A) a decision of the Court on a rule of law or of

(B) in the second sentence, by striking "such court" and inserting "the Court of Appeals for the Federal Circuit".

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 503. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES AND EXPENSES FOR RELATIONSHIP OF ATTORNEY PRAC TITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 242(d) of title 38, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners.

SEC. 504. RETROACTIVE APPLICABILITY OF MODIFICATIONS OF AUTHORITY AND REQUIREMENTS TO ASSIST CLAIMANTS.

(a) RETROACTIVE APPLICABILITY.—Except as specifically provided otherwise, the provisions of sections 5103, 5103A, and 5126 of title 38, United States Code, as amended by section 3 of the Veterans Claims Assistance Act of 2000 (Public Law 106–475; 114 Stat. 2604), apply to any claim readjudicated under chapter 51 of such title, as amended by the Veterans Claims Assistance Act of 2000, as if Board of Veterans’ Appeals most recent denial of the claim concerned had not occurred.

ORDERS FOR MONDAY, SEPTEMBER 30, 2002
Mr. Reid. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Monday, September 30; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for two leaders be reserved for their use later in the day, and there be a period for the transaction of morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 2 p.m., the Senate resume consideration of the homeland security bill.

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

PROGRAM

Mr. Reid. Mr. President, another cloture motion was filed on the Gramm-Miller amendment to the homeland security bill. Senators, therefore, have until 1 p.m. on Monday to file first-degree amendments. We expect to reconsider the vote by which cloture was not invoked on the Gramm amendment to the homeland security bill at approximately 5:30 Monday evening.

ADJOURNMENT UNTIL 1 P.M., MONDAY, SEPTEMBER 30, 2002
Mr. Reid. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:34 p.m., adjourned until Monday, September 30, 2002, at 1 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26, 2002:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Michele Guillerman, of Maryland, to be Chief Financial Officer, Corporation for National and Community Service.

NATIONAL COUNCIL ON DISABILITY

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Milton Aponte, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Barbara Gilchrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2005.
DAVID WENZEL, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004.

GLEN BERNARD ANDERSON, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

BARBARA GILLCRIST, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

GRAHAM HILL, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

MARCO A. RODRIGUEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE ON THE SENATE.
EXTENSIONS OF REMARKS

IN SUPPORT OF H. CON. RES. 177

HON. CIRO D. RODRIGUEZ
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. RODRIGUEZ. Mr. Speaker, I rise to pay tribute to Dolores Huerta, the most prominent Chicana labor leader within the Latino community. Dolores Huerta is the co-founder and First Vice President Emeritus of the United Farm Workers Union of America (UFW), AFL-CIO. For decades she has dedicated her life to the struggle for justice and dignity for migrant farm workers. Honored with countless awards for her tireless commitment, she is a role model for the entire Hispanic community.

In the mid-1950’s Dolores Huerta began her work empowering workers by joining the Community Service Organization (CSO), a Mexican American self help association founded in Los Angeles. Dolores understood early on that empowerment was the key to leveraging power within the Latino community. She registered voters, organized citizenship classes for immigrants, and pressed local governments for improvements in the poorest of barrio communities. Given her passion and determination the CSO sent her to lobby on behalf of these under served communities in Sacramento. It was in this capacity that Dolores began her historic work serving the needs of migrant workers.

Life for migrant farm workers is incredible harsh. They endure painful work conditions during the day—with the hot sun beating down on them as they spend long hours bent over picking strawberries, grapes, lettuce and other crops. The conditions did not improve in the evenings—they retired to run down shacks, if they were fortunate enough to have a home. Often their cars or the floor were their only re-treat. The workers were paid nominal wages, $10 to $20 a basket, and often were subject to further deductions in pay for water they consumed in the hot sun. The majority of these workers were Mexican immigrants or Mexican American workers who were monolingual Spanish speakers and had no voice. Dolores would soon lend her voice, in fact shouts, for justice to their cause.

She joined the Agricultural Workers Association (AWA), a community interest group in northern California. Through her work with the AWA she met Cesar Chavez, at that time the director of the CSO in California and Arizona, soon to become her colleague in the organization which would improve the quality to life for migrant workers across the country the United Farm Workers Union (UFW). The UFW was founded in 1972 with a commitment to justice, heard through the shouts of “si se puede” or felt through the pounding rattle of their traditional unity claps, has won many significant struggles for Latino workers.

As a co-founder and second in command to Chavez, Dolores helped shape and guide the union and contributed to their significant successes. Her style has always been forceful and uncompromising, yet she has been able to build successful coalitions of feminists, community workers, religious groups, Latino associations, student organizations, peace activists and countless others. Many of Dolores activities on behalf of the UFW have placed her in personal danger. She has been arrested more than 22 times for non-violent peaceful protest and in 1988 during a demonstration in San Francisco, she was severely injured by baton swinging police officers. She suffered two broken ribs and a ruptured spleen from this beating, and life threatening experience did not stop her resolve. After recovering from her life-threatening injuries, Dolores resumed her work on behalf of farm workers in the 1990’s and today at 72 years of age she continues to make appearances, lobby, and advocate on behalf of Latino workers. She has truly devoted her life to ensure that workers in this country are treated with dignity and justice.

TRIBUTE TO CHRISTOPHER REEVE

HON. STEN H. HOYER
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HOYER. Mr. Speaker, on the eve of Christopher Reeve’s 50th birthday, I would like to recognize his unfailing courage, strength, and faith as he has worked to overcome paralysis. Not only has Christopher Reeve put a human face on spinal cord injury, but he has become a leading advocate for medical research, better care for people with spinal cord injury and for increased quality of life for the more than two million Americans living with paralysis.

After graduating from Cornell University in 1974 and studying at Juilliard, Christopher Reeve made his Broadway debut opposite Katherine Hepburn in A Matter of Gravity. Best known for his star role in Superman and its many sequels, Christopher Reeve has dazzled the big screen and stage in numerous productions, such as The Remains of the Day, Street Smart, Speechless, Noises Off, Above Suspicion, The Remains of the Day, and most recently, Rear Window. He made his directorial debut with “In the Gaiming” in 1997, which received five Emmy nominations and published his autobiography, “Still Me,” in 1998, which spent eleven weeks on the New York Times Bestseller List.

But beyond his experience within the entertainment arena, Christopher Reeve has achieved great success in a new and much more challenging role: a survivor of spinal cord injury who is working toward a medical miracle. Christopher Reeve has become a beacon of hope for all those with spinal cord injury and paralysis. The recent news reports about his medical progress has been an inspiration for not only those living with paralysis, but also for the medical research community. For the first time since his accident in 1995, Christopher Reeve is able to wiggle his fingers and toes, experience sensation in his body, and tell the difference between hot and cold—something that the medical community did not believe was possible in someone so far removed from the initial time of his accident.

Many of Dolores activities on behalf of the UFW have placed her in personal danger. She has been arrested more than 22 times for non-violent peaceful protest and in 1988 during a demonstration in San Francisco, she was severely injured by baton swinging police officers. She suffered two broken ribs and a ruptured spleen from this beating, and life threatening experience did not stop her resolve. After recovering from her life-threatening injuries, Dolores resumed her work on behalf of farm workers in the 1990’s and today at 72 years of age she continues to make appearances, lobby, and advocate on behalf of Latino workers. She has truly devoted her life to ensure that workers in this country are treated with dignity and justice.

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Christopher Reeve’s recovery and recent scientific evidence show that there is hope for those living with paralysis. At research centers in the United States, Europe and Japan, new techniques of vigorous exercise has helped an estimated 500 persons with paraplegia and limited sensations in their lower bodies to walk for short distances, either unassisted or using walkers.

While the results of these new methods are quite miraculous, the limits of what physical exercise can do for patients remains grossly understudied. While each person and each injury is unique, and some people recover spontaneously, an estimated 200,000 Americans are living with spinal cord injuries that have not improved. Which therapy or combination of therapies will work for each person is unknown. Today 2 million Americans are living with paralysis, including spinal cord injury, stroke, cerebral palsy, multiple sclerosis, ALS and spina bifida. We need research to see how these new interventions work on the entire population of individuals living with paralysis.

Tomorrow, I will join my colleagues in introducing the Christopher Reeve Paralysis Act of 2002, which seeks to further advance the science needed to help those living with paralysis take that next step and at the same time build quality of life program in the state that will further advance full participation, independent living, self-sufficiency and equality of opportunity for individuals with paralysis and other physical disabilities.

Those living with paralysis face astronomical medical costs, and our best estimates tell us that only one-third of those individuals remain employed after paralysis. At least one-third of those living with paralysis have incomes of $15,000 or less. And over the past 20 years, overall spending in the United States, Europe and Japan, new scientific evidence show that there is hope for those living with spinal cord injuries that have been cut in half.

Christopher Reeve’s recent triumphs in overcoming paralysis prove how close we are to achieving major breakthroughs for people who have paralysis. The Christopher Reeve Paralysis Act of 2002 will ensure that the federal government does its part to help the more than two million Americans with paralysis who are still waiting for their own breakthroughs.

As John F. Kennedy once said, “The stories of past courage can define that ingredient— they can teach, they can offer hope, they can provide inspiration. But they cannot supply courage itself. For this each man must look into his own soul.” Since Christopher Reeve was injured, his tireless efforts to walk again, coupled with his faith, passion and commitment to improve quality of life for others living with paralysis, make him an inspiration to us all. Happy Birthday, Chris.
NAC was founded in 1982 to find homes for among the many services they require. an invaluable service to families who might not only provides innovative foster care, adopting, and permanent family homes—biological families were unable to care for them. Since 1982, NAC has moved hundreds of children out of the hospital and into safe, loving, and permanent family homes—foster care, adoption, or extensive work with biological families to enable them to care for their children. NAC consistently receives the highest rankings for foster care services and has reduced the average length of stay from foster-care placement to adoption to half as long as the New York City average. In addition, children who are reunited with their birth families average one year and three months in foster care at NAC, as opposed to the citywide average of four years. NAC’s tremendous efforts to help children with disabilities and chronic illnesses to meet their full potential has given these children an opportunity to lead healthy fulfilling lives. NAC not only provides innovative foster care, adoption, and prevention services, but offers on-site medical and mental health care, which is an invaluable service to families who might otherwise have great difficulty navigating among the many services they require.

Further, NAC provides support groups for the siblings of children with disabilities, mentoring, art therapy, and recreational services, including summer camp opportunities, and considerable help in making sure that families’ homes are able to meet the requirements of children with disabilities.

NAC is providing our community with an immensely important service by preventing the institutionalization of disabled or chronically ill children.

NAC opens a world of opportunities and possibilities for medically fragile children and assists the entire family in reaching their potential as productive members of society.

NAC has strongly held onto the belief that all children have the right to grow up in a loving and safe family setting, and NAC has made this possible for hundreds of children. Within the community, NAC has provided comprehensive services to meet the physical, social, educational, recreational, and health care needs of these children so that they may have a smooth adjustment to living in the community.

In recognition of New Alternatives for Children’s outstanding contributions to the community and their commitment to the quality of life of chronically ill and disabled children, I ask that my colleagues join me in saluting NAC on their 20th Anniversary.

L. MENDEL RIVERS AWARD FOR LEGISLATIVE ACTION

HON. MICHAEL BILIRAKIS OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. BILIRAKIS, Mr. Speaker, the Non Commissioned Officers Association of the United States of America (NCOA) will present its L. Mendel Rivers Award for Legislative Action to our colleague CHRISTOPHER H. SMITH of New Jersey today. The NCOA instituted this annual award to be presented to the legislator who, in their opinion, is most worthy of recognition for personal effort in furthering the ideals of democracy, freedom, and patriotism on behalf of our beloved Nation.

CHRIS’ legislative efforts and achievements on behalf of all who serve or have served in the Armed Forces truly reflect the noble ideals and values of legislative service envisioned by the creation of the award in the honored name of L. Mendel Rivers, a distinguished former colleague of this House.

In selecting CHRIS to receive this coveted award, NCOA has declared to its worldwide membership his extraordinary legislative achievement. His leadership role as Chairman of the Committee of Veterans’ Affairs enabled him to champion legislation that has benefited the men and women who serve or have served in the Uniformed Services of the United States and whose service and sacrifice have preserved the democracy and freedoms enjoyed by all Americans. His legislative leadership in 2001 resulted in new laws providing expanded services and benefits to America’s 25 million military veterans. H.R. 1291 (now Public Law 107–103), the Veterans Education and Benefits Expansion Act of 2001, increases educational, housing, burial and disability benefits by $3.1 billion. This legislation also boosted the Montgomery GI Bill college education benefit amount by a record 46 percent within 3 years, increasing the lifetime college benefit for qualified veterans from $24,192 to $35,460. He is also being recognized for his advocacy to end homelessness among veterans. He has instituted creative programs designed to prevent homelessness by identifying at-risk veterans and has helped institute new nationwide programs to break the cycle of homelessness among veterans.

The Non Commissioned Officers Association (NCOA) is a federally chartered, non-profit, fraternal association founded in 1960. NCOA received its federal charter from Congress in 1988. Its purpose is to uphold and defend the Constitution of the United States; support a strong national defense with a focus on military personnel issues; promote health, prosperity and scholarship among its members and their families through legislative and benevolent programs; improve benefits for servicemembers, veterans, their family members and survivors; and assist servicemembers, veterans, their family members and survivors in filing benefit claims.

INTRODUCTION OF THE DIVIDED PAYMENT INCENTIVE ACT

HON. THOMAS E. PETRI
OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. PETRI, Mr. Speaker, today, I have introduced legislation to authorize a deduction from corporate income for dividends paid to stockholders. The stock market’s continued sluggish performance makes this bill particularly timely. The Dividend Payment Incentive Act of 2002 will help to boost overall stock market performance by providing a very real incentive for investors to put their hard earned money back into the stock market.

Allowing corporations a deduction for dividends paid is important for many reasons, including:

This legislation will end the double taxation of dividends. Today, there is a 35 percent tax on corporate income and then stockholders also pay regular income tax on dividends received. An investor in the 27 percent tax bracket receives less than 48 cents for each dollar of earnings a corporation designates for dividend payments.

Current tax policy provides a disincentive for corporations to transfer earnings to shareholders, and dividend payments have declined significantly. In fact, many corporations make no dividend distributions. My legislation will help to reverse this trend.

Clearly, the expectation of receiving regular dividend payments from profitable companies can persuade investors to return their money to our equity markets. Investors relying solely on capital gains may find little reason to purchase stocks. Moreover, it has been estimated that dividends comprised half of the average return to shareholders in the decades before 1990. Without dividend payments, and few rivalable capital gains, investors will remain on the sidelines.

An increasing number of Americans have come to equate their financial well-being with the health of the stock market. The growth of stock investments held in retirement savings accounts makes it clear that this link is real. Encouraging the regular payment of dividends by ending this double taxation will have a strong positive impact on the retirement prospects of many people.

There are a number of different ways to eliminate the double taxation of dividends, and some of these proposals have been introduced by some of our colleagues. Whatever the merits of those other proposals, none will have as direct an impact on the health of America’s stock markets. Allowing the deduction of dividends from corporate income will provide a strong incentive to corporations to return to the practice of making regular dividend payments. In turn, these dividends will provide a positive reason for investors to come back to the market. The time has come to enact this important tax reform.
RECOGNIZING 100TH ANNIVERSARY OF 4-H YOUTH DEVELOPMENT PROGRAM

SPEECH OF

HON. MARK R. KENNEDY
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 24, 2002

Mr. KENNEDY of Minnesota. Mr. Speaker, good afternoon. I am proud to stand up today in support of House Concurrent Resolution 472 that recognizes the 100th anniversary of the 4-H Youth Development Program.

Both my wife and I, who met when we were both Minnesota State 4-H Ambassadors, were born and have lived in rural Minnesota most of our lives. Until graduating from college, I never lived in a town with more than one thousand people.

4-H enables kids to have fun, meet new people, learn new lifeskills, build self-confidence, learn responsibility, and set and achieve goals!

I will now recite the 4-H pledge:

I pledge: My head to clear thinking; my heart to greater loyalty; my hands to larger service; my health to better living; for my club, my community, my country, and my world.

The World would do well to live by this pledge.

DEBORAH HORWITZ 2002 COLONEL IRVING SALOMON HUMAN RELATIONS AWARD WINNER

HON. BOB FILNER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. FILNER. Mr. Speaker, I rise to salute Deborah Horwitz for her selection as the 2002 Colonel Irving Salomon Human Relations Award recipient. In recognition of her outstanding community and civic leadership. Deborah is the Founder and former Executive Director of the Jewish Community Relations Council of San Diego and is a national leader in the field of interfaith and intercultural relations.

Deborah has been active in many national AJC training institutes, committees, and task forces. She currently serves on the boards of AJC’s Belfer Center for American Pluralism and AJC’s Project Interchange. She has also been appointed as a National Vice President of the American Jewish Committee—the first San Diegan to hold this honored position.

Deborah served as President of the San Diego Chapter of the American Jewish Committee (1988–91) and has actively participated on many national AJC training institutes, commissions and task forces. She currently serves on the Boards of AJC’s Belfer Center for American Pluralism and AJC’s Project Interchange. She has also been appointed as a National Vice President of the American Jewish Committee—the first San Diegan to hold this honored position.

Deborah is also the Founder and former President of EdUCatel, a non-profit foundation supporting local public schools which is still being used as a model in other communities. In 1999, she was recognized for her support of public education and received the California Woman of the Year Award from the California State Legislature.

In addition, Deborah was on the founding steering committee of the San Diego County United Jewish Federation Task Force on Jewish Continuity and, during her five years of service, assisted with the creation of several successful community-building projects.

Deborah currently serves on the boards of the Lipinsky Institute for Judaic Studies at San Diego State University and the Northwestern University Alumni Club of San Diego. She is a founding member of the San Diego County Women’s Foundation, whose mission it is to educate women about philanthropy and to improve the greater San Diego community through intelligent, focused giving.

Deborah Horwitz exemplifies a true leader of our community. I offer my congratulations to Colonel Irving Salomon Human Relations Award.
Mr. Speaker, today I rise in honor of Garen and Shari Staglin. I congratulate them on the phenomenal success of the Music Festival for Mental Health and I join the mental health community in thanking them for their outstanding efforts on behalf of mental illness.

**PANCREATIC ISLET CELL TRANSPLANTATION ACT OF 2002**

**HON. GEORGE R. NETHERCUTT, JR. OF WASHINGTON IN THE HOUSE OF REPRESENTATIVES Wednesday, September 25, 2002**

Mr. NETHERCUTT. Mr. Speaker, on behalf of the Congressional Diabetes Caucus I am pleased to introduce the Pancreatic Islet Cell Transplantation Act of 2002.

I know first-hand about the difficulty involved in managing this disease, as my daughter was diagnosed with diabetes when she was six. I have hope in the rapid pace of research in this area and believe that one day soon there will be a cure for my daughter and the millions of Americans with diabetes. The legislation we are introducing today is an important step toward this goal.

It is a promising time for research on diabetes, and those suffering from the disease and their families are filled with hope. One of the most exciting recent advances, and the focus of this legislation, is pancreatic islet cell transplantation. Many have hailed the breakthrough in this area as the most important advance in diabetes research since the discovery of insulin in 1921.

In 2000, researchers in Edmonton, Canada were successful in isolating islets from donor pancreases and transplanting those cells into a person with diabetes through an injection. These injected islets then begin to function and produce insulin, and this procedure appears to offer the most immediate cure for diabetes. This procedure has become known as the Edmonton Protocol and is the approach used by 100 patients who have been transplanted using variations of this protocol, nearly 90 percent remaining insulin independent beyond two years. The research is moving forward quickly, and researchers around the world are trying to replicate and expand on this success and make it appropriate for children. As of January 2002, there were 80 islet transplantation centers around the world.

I am proud that exciting advances are underway in the state of Washington. Recently, a clinical research team at the JDRF Center for Human Islet Transplantation in Seattle has performed the first three human islet transplants. Individuals who were suffering the effects of advanced diabetes complications prior to receiving the transplant, and all three have now achieved critical post-transplant success in the management of their blood sugar levels. I am heartened to know that the Seattle program plans to continue their research in the future.

The Pancreatic Islet Cell Transplantation Act of 2002 contains three provisions that I believe will help to move this research forward. The first section of the bill provides a regulatory incentive to organ procurement organizations (OPOs) to obtain pancreases. One of the major challenges in promoting research on and transplantation of islet cells is the shortage of pancreases. Approximately 2,000 pancreases are donated each year, and only approximately 500 of those donated are available for use in islet cell transplants. Clearly, this is not nearly a large enough supply considering that millions of Americans have diabetes. Currently, OPOs do not receive credit from the Centers for Medicare and Medicaid Services (CMS), towards their certification, for pancreases retrieved and used for research or islet transplantation. The OPOs do receive credit for pancreases retrieved and used for whole pancreas transplants. This creates a disincentive for OPOs to retrieve pancreases for research or islet transplantation. My legislation attempts to provide an incentive to OPOs by directing CMS to provide credit to OPOs for pancreases retrieved and used for research and islet transplantation.

The second section of this legislation creates a federal inter-agency committee to coordinate efforts in the area of islet transplantation and to make recommendations to the Secretary of Health and Human Services on regulations and policies that would advance this exciting area of research.

Ultimately, the goal is to expand the human clinical trials, demonstrate success over a longer period of time, and move islet cell transplantation from an experimental procedure to standard therapy covered by insurance and appropriate for all individuals with diabetes. The third section of this legislation directs the National Institute of Medicine to conduct a study on clinical outcomes and comprehensive cost-utility analysis that will be important in moving toward this goal.

I encourage all of my colleagues to join with me in supporting this important legislation.

**PRESERVING THE LEGACY OF AN AMERICAN PRESIDENT**

**HON. MIKE ROSS OF ARKANSAS IN THE HOUSE OF REPRESENTATIVES Wednesday, September 25, 2002**

Mr. ROSS. Mr. Speaker, I rise today to thank my colleagues for their support of H.R. 3815, the Presidential Historic Site Study Act, a bipartisan bill I offered earlier this year.

This bill simply begins the normal process for preserving an important American presidential landmark. American Presidents are a hallmark of our society. The way in which Americans forever remember leadership of the “greatest nation” is through their policies, their words, and through the people and places that have shaped their lives. We place a great significance on the homes of Presidents because they are a part of our nation’s history. They are where our leaders formed the beliefs and values that shaped their decisions and legacies. Anyone who has visited Mr. Vernon, Monticello, or Abraham Lincoln’s birthplace at Spring Creek has felt a sense of the historic value of where they stood and what they saw.

The birthplace home of President William Jefferson Clinton holds a piece of our presidential history, and it is only fitting for it to be designated as a National Historic Site.

I share the unique opportunity of being the Representative of former President Clinton’s hometown. Mrs. Clinton is a 1979 graduate of Hope High School. In that small town called Hope, President Clinton was educated and encouraged by a loving family in...
Marcia has also been an actively involved in the community and industry, currently serving as a member and former president of the board of the California Newspaper Publishers Association. Marcia also serves on the board of the Riverside Community College Foundations; the University of California, Riverside (UCR) Foundation; the Mt. San Jacinto College Foundation; the Inland Empire Economic Partnership; and the Community Foundation for the Western Center for Archaeology and Paleontology. She is also a member of the Monday Morning Group, the Murrieta-Temecula Area Group and on the board of visitors for the UCR’s College of Humanities, Arts and Social Sciences. Marcia has also served as a member of the boards of the American Society of Newspaper Editors; California Society of Newspaper Editors; the California Press Association; the University of California, Santa Barbara, Alumni Association; the editorial board of California Lawyer Magazine; and as a Pulitzer Prize juror.

In recognition of her outstanding work in the community, Marcia has been honored by the University of California, Santa Barbara as its Distinguished Alumni Award recipient in 2001; was inducted into the UCR Women’s Hall of Fame in 1998; recognized as the California Press Association’s Newspaper Executive of the Year in 2000; and honored as the Riverside’sYWCA Woman of Achievement in 1994. Marcia’s tireless work as the Publisher, Editor, President and CEO of The Press Enterprise has contributed unmeasurably to the betterment of Riverside County. Her involvement in community organizations makes me proud to call a fellow community member, American and friend. I know that all of the residents of Riverside County are grateful for her service and salute her as she departs The Press Enterprise. I look forward to working with her in the future for the good of our community.

TRIBUTE TO MARCIA M. McQUERN—PUBLISHER, EDITOR, PRESIDENT AND CEO OF THE PRESS-ENTERPRISE

HON. KEN CALVERT
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside County, CA, are exceptional. The County of Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give time and talent to make our communities a better place to live and work. Marcia McQuern is one of these individuals. On October 1, 2002, Marcia will be retiring after 30 years of dedicated service to the community as the Publisher, Editor, President and CEO of The Press Enterprise, the dominant news source for the Inland Empire. Her outstanding work in communicating with the public, in addition to her personal involvement in the community, will be celebrated at a luncheon her honor on October 8, 2002.

Marcia obtained her bachelor’s degree in political science from the University of California, Santa Barbara and served as the editor of the student newspaper. She later obtained her master’s degree from Northwestern University’s Medill School of Journalism. In her 30 years of exemplary employment with The Press Enterprise, Marcia has worked as the executive editor, managing editor/news, deputy managing editor/news, and city editor as well as holding numerous reporting positions. In 1992 she was named president of The Press Enterprise and in 1994 she was named publisher and editor. Under her excellent leadership the newspaper’s daily circulation increased from 116,000 to more than 185,000.

Marcia has also been an actively involved in the community and industry, currently serving as a member and former president of the board of the California Newspaper Publishers Association. Marcia also serves on the board of the Riverside Community College Foundations; the University of California, Riverside (UCR) Foundation; the Mt. San Jacinto College Foundation; the Inland Empire Economic Partnership; and the Community Foundation for the Western Center for Archaeology and Paleontology. She is also a member of the Monday Morning Group, the Murrieta-Temecula Area Group and on the board of visitors for the UCR’s College of Humanities, Arts and Social Sciences. Marcia has also served as a member of the boards of the American Society of Newspaper Editors; California Society of Newspaper Editors; the California Press Association; the University of California, Santa Barbara, Alumni Association; the editorial board of California Lawyer Magazine; and as a Pulitzer Prize juror.

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HONORING AN AMERICAN HERO: HAROLD “BUTCH” HOLDEN

HON. JAMES A. BARCIA
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. BARCIA. Mr. Speaker, I rise today to honor Harold “Butch” Holden upon his retirement after 34 years as a Boys & Girls Clubs of America professional. After working his way through college in various positions with the San Diego and El Cajon Clubs, Butch launched a Boys & Girls Club career marked by great success and accomplishment. The Boys & Girls Clubs of America is losing a national office, where he was responsible for the development and oversight of hundreds of local Clubs, serving hundreds of thousands of young people. From 1996 to present day, he closed out his career by building an organization consisting of nine Clubs now known as the Boys & Girls Clubs of Central Oregon. All along the way, Butch has guided and looked after the young people in his Clubs as if they were his own children.
From 1967 to 1971, Butch served our country as a member of the U.S. Marine Corps, rising to the rank of Captain. He served two tours in Vietnam as a Platoon Leader and Company Commander, and was awarded the Silver Star for gallantry in action against superior enemy forces, two Bronze Stars for valor, three Purple Hearts, a Navy Commendation Medal for valor, the Vietnamese Cross of Gallantry with silver star, and the Combat Action Ribbon. All of these were personal decorations.

Finally, Mr. Speaker, I ask my colleagues to join me in saluting Butch Holden, a true American hero. Butch Holden is a man who has served his country in war and in peace. He has truly made it his life’s mission to make America a better and safer place for our young people. Butch Holden has earned our respect and is a shining example of why America is the greatest nation on the face of the earth.

TRIBUTE TO LOUIS AND JOSEPHINE KOSON

HON. ROBERT A. BRADY
OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor and congratulate Louis and Josepbine Koson on celebrating their 60th Wedding Anniversary this past August 29, 2002. This extraordinary couple embodies true commitment. They possess a love and dedication for each other that is remarkable.

Louis and Josephine met and married while Louis was an Air Force Military Police officer during World War II. They went on to have two children: John and Loretta. By way of their children, Louis and Josephine have one grandchild, Tommy, and two great grandchildren, Sean and Matthew. I am proud to share their story with you.

Mr. Speaker, our Nation understands the value of strong families. Louis and Josephine are an example to us all that love endures all things. I hope that my colleagues will join me in recognizing their successful marriage and their 60th Wedding Anniversary.

TRIBUTE TO MARIANNE AND DONALD KLEKAMP

HON. ROB PORTMAN
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. PORTMAN. Mr. Speaker, I rise today in recognition of Marianne and Donald Klekamp, dear friends and community leaders, who will be honored at the 4th Annual Brain Injury Awards Dinner in Cincinnati on September 27, 2002.

Marianne and Donald are both Cincinnati natives who have made a tremendous difference in our area. Marianne received a Bachelor of Science in Nutrition from the University of Cincinnati in 1956. Donald received a Bachelor of Arts with honors from Xavier University in 1954, and went on to earn his law degree from the University of Cincinnati College of Law in 1957.

Marianne and Donald were married in July 1957. They briefly left the Cincinnati area while Donald worked as a tax attorney in Cleveland with U.S. Steel Corporation. However, in 1959, they moved back to Cincinnati, when Donald accepted a position with the law firm of Keating & Muething, P.L.L., as it was known back then. Forty-three years later, Donald is still working hard as a Senior Partner at the same firm, now known as Keating, Muething & Klekamp, P.L.L. Donald is an excellent lawyer, and is regularly included in the Best Lawyers in America.

Don’s success at Keating, Muething & Klekamp, P.L.L. would not have been possible without Marianne’s hard work and dedication to their family and home. While raising their five children, Amy, Molly, Rebecca, Jody, and Peter, Marianne provided support to Don in his law practice and to his community activities.

Marianne and Donald have also given a great deal to our local community. In addition to their children’s school related activities, Marianne served as President of Cotillion, and more recently as a member of the Cincinnati Nutritarian Council. Donald recently served for eight years on the Indian Hill Council, the last four as Mayor of the Village. He also was a board member of the Indian Hill Historical Society, the Greater Cincinnati Dental Care Foundation of Children’s Hospital, and the Citizens for Community Values. Donald was also president of the Cincinnati Citizens Police Association, a former trustee of the Madeira and Indian Hill Joint Fire District and of the University of Cincinnati Foundation. In addition, Donald is a founder and past president of the Ohio Right to Life Society, and he has received a number of awards and honors, including the Trustee’s Award of the Cincinnati Bar Association and the Distinguished Alumus Award from Xavier University.

Donald currently serves on the Dean’s Board of Visitors of the University of Cincinnati College of Law, and on the boards of the Legal Aid Society and the National Coalition of the Protection of Children and Families and Life Issues Institute. Donald also serves on the board of directors for a number of companies, including Cintas Corporation.

Marianne and Donald recently established the Donald P. Klekamp Professorship of Law at the University of Cincinnati College of Law and helped establish a scholarship in the Honors AB Program at Xavier University. They also were instrumental in providing funding for the acquisition and remodeling of the Donald P. Klekamp Community Law Center, the new location of the Legal Aid Society, which provides legal services to the poor and disadvantaged in Southwestern Ohio.

Mr. Speaker, Marianne and Donald are outstanding individuals who have really made a difference in the Cincinnati area. All of us in Southwestern Ohio are thankful for their countless contributions to our community as they are honored at the 4th Annual Brain Injury Awards Dinner.
September 11th has led to many pronouncements that Americans have come to reaffirm the moral imperatives on which our Nation was founded. But, its aftermath has also shown the immediacy of taking real steps to protect people’s lives. Already, Federal authorities have seen a rise in violence against Arab Americans with nearly 5,000 documented incidents and several murders motivated by prejudice. This is in addition to countless acts of violence that are reported every year against African Americans, Asian Americans, Jews, gays and lesbians, and women among other minorities. The facts show that it is time that we enforce a no tolerance policy on acts of hate.

I urge my colleagues to stand up for our Nation’s ideals, to stand united against hatred and intolerance, and demand action on this important hate crimes legislation.

IN HONOR OF THE ARMENIAN EVANGELICAL CHURCH OF HOLLYWOOD’S 20TH ANNIVERSARY

HON. ADAM B. SCHIFF
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. SCHIFF. Mr. Speaker, we rise today to honor the Armenian Evangelical Church of Hollywood. On November 23, 2002, the church will celebrate its 20th Anniversary and we would like to offer our congratulations and good wishes on this most noteworthy occasion.

The Armenian Evangelical Church of Hollywood, founded in May of 1982, began as a ministry created by the Rev. Abraham Jizmejian and the Rev. Abraham Chaparian. The Hollywood Pastoral Ministry, as it was designated in the early days of the church, offered church services, fellowship groups, Bible study and a variety of other pastoral services.

In June of 1982, after the current day church had been formed, the church was officially accepted by the Armenian Evangelical Union of North America and from that time, the church has devotedly served its community. Today, the congregation numbers over 250 and is served by a number of church ministries, including Sunday school, men’s and women’s fellowship, Bible study and youth ministry.

Over the years, the church has always made a special commitment to the youth of its congregation and community. It was from this commitment that the church, nine years ago, founded New Direction For Armenian Youth, to serve at risk youth in church and surrounding areas. The program has helped countless young people and their families in coping with many of the harmful influences that pervade many of our communities.

We ask all Members of Congress to join us in honoring the Armenian Evangelical Church of Hollywood on the church’s 20th Anniversary and wish the church many fulfilling days to come.

GOLDEN GATE NATIONAL RECREATION AREA

SPEECH OF
HON. NANCY PELOSI
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 24, 2001

Ms. PELOSI. Mr. Speaker, I rise in support of S. 941, the Rancho Corral de Tierra Golden Gate Boundary Adjustment Act. This bill contains several provisions that will enhance preservation of our natural and cultural resources in California.

I applaud my colleague from California, Representative LANTOS, for championing the expansion of the Golden Gate National Recreation Area in San Mateo County. This bill would add close to five thousand acres to the park, including Rancho Corral de Tierra, one of the largest undeveloped properties on the San Francisco Peninsula and one of the few remaining ranchos from the era of Spanish land grants.

This acquisition, conducted through a public-private partnership, will allow the park service to protect spectacular views, three complete watersheds, and habitat of rare and endangered species and plants. Of great importance for the future of the park, S. 941 also authorizes the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission. The Commission was established thirty years ago to provide for the free exchange of ideas between the National Park Service and the public, and it has ably carried out this mission.

I wish to acknowledge and thank all the members of the Commission for their dedicated service to the GNRA and public, with special thanks to Chairman Richard Bartke and Vice Chair Amy Meyer. The GNRA is one of the most complex parks in the country, and its diversity and vibrancy is due in no small part to the efforts of the Advisory Commission.

I look forward to working with Rep. LANTOS, my colleagues on the Resources Committee, and my colleagues in the Senate to ensure that this bill is signed into law before Congress adjourns this year.

AMERICAN FRONTIERS: A PUBLIC LANDS JOURNEY

HON. CHRIS CANNON
OF UTAH
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. CANNON. Mr. Speaker, from Native Americans to Mormon Pioneers to today’s western travelers, people have long been captivated by the unique and beautiful landscape of my state. Utah’s steep mountains, broad valleys, ancient rock formations and unique natural resources continue to draw visitors and many of my fellow Utahns to our public lands where a wide variety of outdoor activities can be enjoyed.

This coming Saturday, September 28, 2002, Utah and the Nation will celebrate National Public Lands Day. In Salt Lake City, we will welcome a special group of folks that spent the last two months on an incredible expedi-
same time ensuring that Americans get maximum value from the taxes they pay.

Dr. Heustis has been a champion in the drive to ensure that our veterans are satisfied with the treatment they receive at the Petts Memorial VA Medical Center. Under his leadership, the Center has invested heavily in research and has gained a reputation for quality care and sensitive treatment of veterans.

Over the years, the Jerry L. Pettis Memorial VA Medical Center has become highly respected in the community. Working in close affiliation with Loma Linda University Medical Center, the VA medical center has provided a training ground for student doctors for nearly two decades. With its international reputation as a medical innovator, Loma Linda University has provided many benefits for the veterans at the VA, as well.

Dr. Heustis has taken a direct role in this relationship as a professor of pathology at the university, co-medical director of the School of Cytotechnology, and associate dean for veterans affairs. He has also published numerous articles in medical journals, and been a regular presenter at scientific symposia. He has been named the “highest-rated lecturer” at sixteen symposiums since 1986, and received the Scissors Award from the Healthcare Leadership Institute in 2000.

Mr. Speaker, Dr. Darryl Heustis has met the highest professional standards as a medical doctor, ensured top-notch care for hundreds of thousands of veterans, and overseen the education of countless student doctors over the past 25 years. Please join me in thanking him for his service to his community and our nation, and wishing him well in his future endeavors.

RESOLUTIONS TO TAKE ACTION AGAINST IRAQ

HON. JOHN CONYERS, JR.
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. CONYERS. Mr. Speaker, Members of Congress face some decisions as important for their constituents as the issue of war or peace—sending young men and women into combat. And now, protecting Americans from terror attacks in the U.S. is equally vital. These crucial questions truly call for us to put aside political calculation and do what is right and best for America. These issues also call for us to resist a rush to judgment. We must weigh and throughly aired.

I oppose the resolution requested by President Bush that would give him a blank check to start a war against Iraq at any time and in any manner that he chooses. This clearly is too broad. It authorizes the President to act unilaterally no matter what the U.N. decides or does. That would abdicate congressional responsibility and is reminiscent of the equally open-ended Tonkin Gulf Resolution in 1964. It also fails to limit his authority to working within the U.N. framework on peaceful measures to enforce U.N. sanctions. Finally, the President’s proposal embodies his alarming new doctrine of pre-emptive U.S. attacks on other nations even when they pose no imminent threat to the U.S.

Instead, I join with many of my colleagues who support a more sensible, more justified and far less dangerous position: we advocate that the U.S. pursue inspections through the U.N., while continuing to deter Saddam Hussein, as we have been able to do for the past decade. To implement this view, we have introduced an alternative resolution endorsing President Bush’s recent for U.N. inspections.

The Administration simply has not made the case that Iraq threatens the United States with weapons of mass destruction, and that we are in such imminent danger of attack that U.S. military action is either the prudent or the justified course. Everyone agrees that Saddam Hussein is a ruthless dictator; he has ruthlessly repressed his own people; committed aggression in the past; violated U.N. sanctions; sought to develop weapons of mass destruction; and remained hostile to the United States.

But that does not end the matter, for two reasons. First, the same could be said for any number of other countries, such as North Korea, China, and Iran. Will the U.S. attack each of them, and others, because some day they might be able to threaten us with weapons of mass destruction? Second, even if a “regime change” in Iraq is desirable, that does not justify taking military action when it would risk so many dangers to America. Attacking Iraq will increase rather than decrease the likelihood of Saddam Hussein’s largesse: he does not have against Israel, against our other allies, or against U.S. forces stationed in that region—risk that even Secretary of Defense Rumsfeld acknowledged in recent congressional testimony. At present, Hussein is deterred by our threat of retaliatory destruction. Until he knows that, if he were to use weapons of mass destruction against us, then we would retaliate and destroy him. There is no evidence that Hussein seeks to commit suicide. But if we attack first, after announcing an intent to wipe him out, then what reason would he have to hold back?

A U.S. attack poses other severe dangers: American military commanders fear it would dilute our fight against al Qaida. We have not yet captured those who killed thousands of Americans, and who, we know, are still trying to kill more. That is job number one.

America’s attacking Iraq alone would ignite a firestorm of anti-American fervor in the Middle East and Muslim world and breed thousands of new potential terrorists. As we see in Afghanistan, there would be chaos and inter-ethnic conflict following Saddam’s departure. A post-war agreement among them to cooperate peacefully in a new political structure would not be self-executing. Iraq would hardly become overnight a shining example of democracy. On the contrary, the U.S. would need a U.S. peacekeeping force and nation-building efforts there for years. Despite rosy predictions that the Iraqi people would welcome our soldiers and aid workers with open arms, they would be arriving after years of U.S.-led economic sanctions, followed by violent U.S. bombing and combat. They will be the constant target of local hostility and terrorist attacks.

If we violate the U.N. Charter and unilaterally attack another country when it is not yet a matter of necessary self-defense, then we will get not respect, but hatred and fear, the way for any other nation that chooses to do so, too, including those with nuclear weapons such as India and Pakistan and China.

We will trigger an arms-race of nations accelerating and expanding their efforts to develop weapons of destruction, so that they can deter “pre-emptive” hostile action by the U.S. Do we really want to open this Pandora’s box?

The war, plus the need to rebuild Iraq and create a new, limited, peaceful country, would cost billions of dollars badly needed at home. For millions of Americans, the biggest threat to their security in the lack of decent wage jobs, health insurance or affordable housing for their families. For senior citizens, it is their need to choose between buying enough food and buying prescription drugs. And Americans are more frightened about security at our airports than about some strutting dictator thousands of miles away. Yet the Bush Administration deficit budget won’t even permit meeting the year-end deadline for installing new baggage and passenger screening systems to protect us against an immediate threat here at home.

The huge costs of war and nation building, which will increase our deficit, along with the impact of the likely sharp rise in oil prices, will be a double-barreled blow to our currently fragile economy.

But if it were plausible that we had to attack Iraq now, in order to head off strategic threats to the United States in the near-future—and if alternatives had been exhausted, then that over-ridingly compelling concern might justify the risk of all these harmful consequences that are certain to follow U.S. military action. But the Bush Administration has not presented persuasive evidence that Saddam will soon be able to threaten America with weapons of mass destruction, or that his regime might present an actual strategic threat to U.S. security.

And if he is likely to use such weapons again, then, a U.S. pre-emptive attack makes no sense, in light of the risks it would create and the clear harm it would cause to our national interests.

In fact, it is precisely because they lack such evidence that the President, Secretary Rumsfeld and Vice President Cheney have increasingly downplayed claims of an impending nuclear threat from Iraq and have switched to elaborating on what a bad person Saddam has been. But that is a departure from the principles of our tradition—an unprovoked attack initiated by the U.S.—cannot be justified merely because we would prefer another regime in Baghdad, or because someday Saddam Hussein might present an actual strategic threat to U.S. security.

In addition, Americans should ask the White House and the Congress about the timing of the vote on any IRAQ resolution. What’s the rush? According to press reports, our military leaders have made clear they will not be ready to launch an attack on Iraq, and would need a U.S. peacekeeping force and nation-building efforts there for years. Why then, do we need to decide such a complex and consequential issue in a few days? Why cut short the national debate to which the American people are entitled? Is it because the Administration is aware that a growing number of Americans are troubled by all of the unanswered questions? Americans are puzzled why Iraq has suddenly become such a threat that the White House is prepared to go to war and shed the blood of American men and women, not to mention great numbers of innocent Iraqi civilians. They are right to ask. What has changed in the last six months or year that suddenly makes an attack on Iraq the leading item on
the Administration’s agenda? All of the reasons now being cited by the White House— Hussein’s bad character, his past behavior, the outstanding unfulfilled U.N. resolutions and his continued pursuit of strategic weaponry—were equally true back then.

I would hope that this headline rush to judgment does not have anything to do with the November elections.

I expect the Bush Administration to present very soon some conveniently last-minute “new evidence” in order to support its promised new National Intelligence Estimate (NIE) assessing Iraq’s capabilities. It is very odd that, as of last week—so many months after Iraq had become the leading headline issue—the Administration had still not completed an all-source, inter-agency assessment of Iraq’s weapons of mass destruction and future capacity:

Is this because the White House knew it would be unhappy with the result?

Is it because the Administration was unable to pressure all of the intelligence agencies to reach the “right” conclusions?

Is it because the White House has been pressuring the Intelligence Community to find some new “evidence” that could be artfully interpreted to support Administration policy?

Mr. Speaker, it is difficult to avoid the conclusion that one or more of these considerations played a role in the otherwise inexplicable delay. Therefore, I have asked the Chairman and Ranking Member of the House Committee on Intelligence to vigorously investigate what dissents any of the intelligence agencies may have registered from the NIE’s overall conclusions, from its component findings and from its assumptions—either in the final document, or in earlier comments on discussion drafts.

This summer, several major newspapers reported that senior officers at the Pentagon, including members of the Joint Chiefs of Staff did not believe that Iraq posed a sufficient threat to the U.S. to warrant the risks and the costs of a war. Now they apparently have been brought on board a White House war train that is about to leave the station. Why have they suddenly reversed their position? I trust their initial professional judgment.

In these tense times, we should keep in mind the recent warning from another military leader, General Anthony Zinni, who was Marine Commandant and also has headed our Armed Forces Central Command, which guards our interests in the Middle East. He currently is a key advisor on that region to the Administration. General Zinni reminded us that military commanders, who know the full horrors of war are hesitant to plunge ahead unless the national interest is clearly at stake, while those who have never worn a uniform or seen combat often are the ones who most easily and enthusiastically beat the drums of war.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. ORTIZ. Mr. Speaker, due to business in my district, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated: rollcall No. 400 “yea”; rollcall No. 401 “yea”; rollcall No. 402 “yea”; and rollcall No. 403 “yea.”

COMMENORATION OF SEPTEMBER 11, 2001

HON. NICK J. RAHALL, II
OF WEST VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. RAHALL. Mr. Speaker, “We must consider that we shall be as a city upon a hill,” the Puritan preacher John Winthrop proclaimed, as he and his followers sailed for America and freedom. “The eyes of all people are upon us.” And so they have remained for nearly four centuries. Many have looked to us in awe, inspired by a nation rooted in liberty. Others have hated the ideal we embody, and wished us ill. But none can remove us from their gaze.

Today, America’s economic prosperity, military power, and technological advancement are without peer. Our daily comforts and conveniences exceed those available to most of the six billion people who inhabit the earth. But the ease of our lives does not render us soft, or reluctant to retaliate when attacked. A year ago, all the world watched in horror as a small gang of wicked men took three thousand innocent lives in New York, Washington, and Pennsylvania.

Since the moment the first airplane struck the first tower, Americans have shown, both on the battlefield and at home, the strength of our spirit, the mettle of our souls, and the force of our arms. From the firefighters climbing to their deaths, to the airline passengers who battled back, to the precious Virginia sons and daughters who gave their lives while those who have never worn a uniform or less the national interest is clearly at stake, guarding our interests in the Middle East. He described how we must live to see the world, he described how we must live in these tense times, we should keep in mind the recent warning from another military leader, General Anthony Zinni, who was Marine Commandant and also has headed our Armed Forces Central Command, which guards our interests in the Middle East. He currently is a key advisor on that region to the Administration. General Zinni reminded us that military commanders, who know the full horrors of war are hesitant to plunge ahead unless the national interest is clearly at stake, while those who have never worn a uniform or seen combat often are the ones who most easily and enthusiastically beat the drums of war.

As a youngster, “Dottie” as she was known to her family, was aware of the events at an early age taking up tap dance, piano, and chorale lessons. Her love of music and the arts continued throughout her life. Baptized at Trinity Baptist Church, Dorothy accepted Christ at an early age. She attended church regularly and participated in Sunday School and bible classes. She continued her involvement in church activities until her health failed.

An old African proverb states that “It takes a whole village to raise a child.” Dorothy epitomized this concept which became a reality in her community where she grew up known as the Hobart Street “village”—a group of families in her neighborhood who bonded and acted as a family unit. Dottie gave music lessons to younger children in the neighborhood and continued to teach Music throughout her college and later she received a Bachelor of Arts and a Master of Arts degree at California State University, Los Angeles. She began her career and pursuit of excellence in education for children by working in the Early Childhood Education Program at Normandie Avenue School and subsequently accepted a fourth-grade teaching position at Sixth Avenue School. This devoted educator served the Los Angeles Unified School District for 33 years as a Teacher, Title I Coordinator, Area Advisor, Assistant Principal and Principal. Her last administrative assignment was Principal at Glen Feliz Elementary School. Due to her commitment to understanding of education, she was appointed to the California Textbook Commission by Assembly Speaker Willie Brown in 1991. This bi-ethnic, multi-talented educator, made tremendous contributions to the school and community and received many honors and accolades including the “Woman of the Year” from

CELEBRATING THE LIFE OF DOROTHY “DOTTIE” KAY JACKSON

HON. DIANE E. WATSON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Ms. WATSON of California. Mr. Speaker, Dorothy Kay Jackson was born on July 1, 1943 in Detroit, Michigan. She was the third child born to Lawrence Osbornes and his brother, Willis “Pops” Osbornes and her brother, John Alfred Moore. The family moved from Detroit in the summer of 1943 to Los Angeles. Dorothy attended public schools in Los Angeles and graduated from Los Angeles High School with honors in 1961.

As a youngster, “Dottie” as she was known to her family, was aware of the events at an early age taking up tap dance, piano, and chorale lessons. Her love of music and the arts continued throughout her life. Baptized at Trinity Baptist Church, Dorothy accepted Christ at an early age. She attended church regularly and participated in Sunday School and bible classes. She continued her involvement in church activities until her health failed.

An old African proverb states that “It takes a whole village to raise a child.” Dorothy epitomized this concept which became a reality in her community where she grew up known as the Hobart Street “village”—a group of families in her neighborhood who bonded and acted as a family unit. Dottie gave music lessons to younger children in the neighborhood and continued to teach Music throughout her college and later she received a Bachelor of Arts and a Master of Arts degree at California State University, Los Angeles. She began her career and pursuit of excellence in education for children by working in the Early Childhood Education Program at Normandie Avenue School and subsequently accepted a fourth-grade teaching position at Sixth Avenue School. This devoted educator served the Los Angeles Unified School District for 33 years as a Teacher, Title I Coordinator, Area Advisor, Assistant Principal and Principal. Her last administrative assignment was Principal at Glen Feliz Elementary School. Due to her commitment to understanding of education, she was appointed to the California Textbook Commission by Assembly Speaker Willie Brown in 1991. This bi-ethnic, multi-talented educator, made tremendous contributions to the school and community and received many honors and accolades including the “Woman of the Year” from

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the California State Legislature. A scholarship was established in her name by BAPAC and continues today. She was actively involved in politics serving as the Chair of the Los Angeles Black American Political Association of California (BAPAC), President of the National Association of Minority Political Women (NAMPW), and a founding member of Los Angeles African American Women’s Political Action Committee (LAAAWPAC). She was also a member of the Council of Black Administrators, Alpha Kappa Alpha Sorority, the Association of Administrators of Los Angeles, and the New Frontier Democratic Club.

Dottie was well-traveled, spiritual, and an avid reader. She enjoyed going to movies, to plays and to political activities with her sister and friends, often bragging and telling you about the many accomplishments of her granddaughter, Danniele Bowman.

Even though she was diagnosed at an early age with Lupus, she lived a full, active, and productive professional and personal life as evidenced by her many achievements and activities. Dorothy endured many years of aches and pains. But she never lost faith because she was grounded in the spirit of Christ. On September 11, 2002 after many physical battles she answered God’s call. She died, this year, at the age of 89.

She loved to cherish her memory a devoted husband, Charles G. Jackson; one daughter, Shelley Jackson; a granddaughter, Danniele Bowman; one sister, Gwen Moore Dobson (Ron); two brothers, Lawrence H. Moore (La Verne) and Arnold Osborne (Eileen); three sisters-in-law, William Jackson (Barbara), Gary Cooper (Brenda), and Johnny Charles Cooper (Shirley); five sisters-in-law, Karen Woo (Victor), Gwen, Patrice, Deniece and Jan Cooper; father-in-law, James L. Jackson (Shirley); two nephews, Ron Dobson (Tina) and Marc Moore (Tammie); two nieces, Lawri and Lani Moore; grand niece, Christina Carr; grand nephew, Dylan, Trey and Mason; and a host of friends and relatives.

IN HONOR OF ANN KAPLAN

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mrs. MALONEY of New York. Mr. Speaker, I ask my colleagues to join me in honoring Ann Kaplan, who is celebrating her 25th anniversary at Goldman Sachs & Co. As Managing Director at Goldman Sachs, Ms. Kaplan is one of the rare individuals who is a successful businesswoman, an extraordinary role model and a great visionary.

Ms. Kaplan has been the recipient of numerous achievement awards, including the Columbia Business School Distinguished Alumnae Award, the Smith Medalist Award, the Clairol Mentor Award, the YWCA Academy of Women Achievers and the Women’s Economic Roundtable Award in Finance, to name just a few. She was also recognized for her achievements with awards from both Mayor David Dinkins and Governor George Pataki.

Mr. Speaker, I ask my colleagues to join me in saluting Ann Kaplan, an outstanding businesswoman, an extraordinary role model and a great visionary.

IN HONOR OF SUSQUEHANNA TOWNSHIP OF PENNSYLVANIA

HON. GEORGE W. GEKAS
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. GEKAS. Mr. Speaker, I am very pleased to bring to your attention the fiftieth anniversary of Susquehanna Township’s establishment as a First Class Township. Susquehanna Township is located just outside the City of Harrisburg in my hometown.

Susquehanna Township owes its name to a local tribe of American Indians known as the Susquehannocks. In 1815, the township was first formed, cut from the larger Lower Paxtung Township.

The first settlement of Susquehanna Township, however, was much earlier. In 1757, Dr. John Cox, Jr. of Philadelphia, Pennsylvania laid out a section of the township which was first known as “Cowestown,” but was later renamed to “Estherton” after his wife, Esther. A man known only as Mr. Roberts settled the second known settlement of Susquehanna Township in 1774. That area today is known as Rockville. By 1815, the area of Progress in eastern Susquehanna Township was settled and continues to hold that name today.

As of 1928 the Township was a second class township in Pennsylvania. On January 2, 1952, Dauphin County Court acted upon a petition from the supervisors of Susquehanna Township re-establishing it as a First Class Township.

Susquehanna Township today is a booming municipality of the highest living standards for residents and businesses alike. Its assessed valuation well exceeds $1 billion. Twenty-two thousand people call Susquehanna Township home and over three thousand students are enrolled in its two elementary schools, one middle school, and one high school.

I commend the leaders of Susquehanna Township for guiding it through fifty years of success as a First Class Township. In addition, I want to recognize the schools and businesses of Susquehanna Township for their countless contributions to this wonderful Central Pennsylvania community. Congratulations, Susquehanna Township, on your Golden Anniversary.

TRAGIC EVENTS OF SEPTEMBER 11, 2001

HON. HENRY E. BROWN, JR.
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. BROWN of South Carolina. Mr. Speaker, I will forever forget the tragic events of September 11, 2001. Although this unprovoked attack on our nation by faceless cowards sought to damage American will, there can be no doubt that we are more determined than ever to fight for our freedom and preserve our way of life. We have sent our sons and daughters into battle in Central Asia and throughout this world to bring the perpetrators to justice and to eradicate the scourge of terrorism from the face of the earth. I know that we will succeed.

During the past year, we have pulled together as Americans with a renewed sense of patriotism and pride in all of our institutions. Each of us has made a tremendous difference in so many ways like donating blood or food to relief efforts and flying the American flag outside our homes as a sign of solidarity. In the Congress, members of both parties worked together in a bipartisan fashion like never before to demonstrate our resolve to the world community and to care for the victims and their families. When we sang “God Bless America” on the Capitol steps that same night, it was an incredibly emotional moment that truly touched my soul.

It was a true honor to be in New York City at the special joint session of Congress. A couple of weeks after the attacks, I went to ground zero with other members to witness
American Frontiers: A Public Lands Journey

Hon. Dennis R. Rehberg
Of Montana
In the House of Representatives
Wednesday, September 25, 2002

Mr. REHBERG. Mr. Speaker, Westerners have an understanding about the importance of public lands to our region and its economy. We know there are forests for recreation and commodity production, ranch lands for grazing, wilderness for back country exploring, and national parks, monuments, rivers, and trails that welcome visitors by the millions each year. But a group of committed partners including federal agencies and organizations like the National Geographic Society organized a special trek to ensure that all Americans understand our common public lands legacy. American Frontiers: A Public Lands Journey, began July 31 and will conclude September 28 in Salt Lake City. Of the two groups making the 3,200-mile journey entirely on the public lands and waters, one started at Glacier National Park in my home state of Montana. At Pipestone Pass in the Beaverhead-Deerlodge National Forest, that group helped Montana complete their second segment of the Continental divide National Scenic Trail at a ribbon-cutting ceremony. I congratulate the efforts of American Frontiers to foster a greater understanding of America’s public lands legacy and am excited that they are bringing attention to the approximately 30 million acres of public lands in Montana. Special thanks to the Public Lands Interpretive Association that spearheaded this effort. I look forward to hearing accounts from this epic journey.

Tribute to Kimberly Parker

Hon. Scott McInnis
Of Colorado
In the House of Representatives
Wednesday, September 25, 2002

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to one of the thousands of unsung heroes who help make our communities safe and our nation secure in the face of disaster. Kimberly Parker is such a person, contributing her time and efforts to preparing local agencies and organizations to handle potential, large-scale emergencies. It is with great respect I stand to honor a woman who has dedicated herself to mitigating the terrible affects of unexpected tragedy.

As emergency manager for Mesa County in Colorado, Kimberly spends her time concerned with problems that rarely cross the minds of others. In fact, it is because of her people in Mesa County rest assured knowing that the critical partners and local agencies continuously get the training and expertise they need to handle the expected problems like Y2K, or the unforeseeable like a flash flood. She constantly stands ready to assess, coordinate, and respond to emergencies in order to minimize their impact on the public.

In the face of 9/11, Kimberly was quick to pull together all the emergency and security agencies to help create an appropriate and coordinated response through the county’s Incident Management Group. She maintained a steady and nimble information dissemination to calm nerves and dispel the many rumors that proliferated in the aftermath surrounding the tragedy. Kimberly continues to share the lessons she has learned in her efforts to prepare for the future by training her Incident Management Group to better react to the new dangers we face both within our country and communities since 9/11.

Mr. Speaker, I rise today to praise Kimberly Parker before this body of Congress and our Nation. Her efforts on behalf of the communities of Mesa County highlight her commitment to preserving public safety and security. Kimberly’s vigilant and expert handling of recent crises has made her a beacon of assurance in these turbulent times and deserves our praise.

Honor the Life of Cung Pham and His Service to St. Anselm’s Cross-Cultural Center in Garden Grove

Hon. Loretta Sanchez
Of California
In the House of Representatives
Wednesday, September 25, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to honor the life of Cung Pham of Garden Grove, California’s 34th Congressional District.

Cung Pham served as the director of educational legislation and planning prior to the fall of the Republic of Vietnam in 1975. After the country’s collapse, he was detained in a concentration camp for seven years before escaping by boat in 1982 to spend time in a refugee camp in Thailand.

Mr. Pham eventually ended up in the Orange County community. Using his understanding of the refugee experience, Mr. Pham worked as the director of the refugee resettlement program at St. Anselm’s Cross Cultural Center in Garden Grove. His compassion and organizational skills helped make the program a model for the entire country, helping thousands of refugees become assimilated to American life. He helped them with paper work, enrolled them in English classes, and trained them for job interviews.

Sadly, at the young age of 63, Mr. Pham lost his battle to cancer on September 14, 2002. He was known for his quiet and gentle ways and was greatly admired by those he helped and those with whom he worked.

In Honor of Dr. Michael Schwartz, President of Cleveland State University

Hon. Dennis J. Kucinich
Of Ohio
In the House of Representatives
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Dr. Michael Schwartz, who was named the fifth president of Cleveland State University.

With a life-long commitment to higher education, Dr. Schwartz continues to be a true advocate of the students he serves. A long-time proponent of open dialogue between students and faculty, Dr. Schwartz fosters a positive campus atmosphere where student learning, achievement, and services are the focus.

Dr. Schwartz brings extensive professional and educational experience to his role as President of Cleveland State University. He holds a Ph.D. in sociology, an M.A. in labor and industrial relations, and a B.S. in psychology, all from the University of Illinois. Dr. Schwartz served as professor and Chairman of Sociology, and Dean of the College of Social Science at Florida Atlantic University. While in Detroit, he taught sociology and psychology at Wayne State University, and served as research director for the Mayor’s Committee for Community Action for Detroit Youth. Moreover, Dr. Schwartz served as President of Kent State University from 1982 to 1991, at which time he stepped down to resume teaching.

Mr. Speaker and colleagues, please join me in honor and recognition of Dr. Michael
promise of guiding, strengthening and enhanc-
ment and excellence for every student, faculty
Schwartz sets a tone of confidence, achieve-
land community. The leadership of Dr.
recently named the fifth President of
September 26, 2002
Mr. PETERSON of Pennsylvania. Mr.
by attacking terrorists who believed that by tak-
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Mexican heritage an opportunity for support,
their faith, strong sense of family, and rich cul-
talents.
The Club Azteca has been a reflection of
Mexican American community in the
area for seven decades; its leaders
in recognition of the founding and current members of
they as they celebrate their 70th anni-
This wonderful organization has pro-
Cleveland with their contribu-
August 1932, the Club Azteca was
renewed their love and heritage a signi-
ful aspect of the multi-cultural fabric of our
community.

Mr. TIERNEY, Mr. Speaker, On this somber
anniversary of the tragic events that took place on our
homeland. Club Azteca was progressive from the
beginning. Since its inception in 1932, the
Club admitted women on an equal basis, with
the right to hold office and participate in all de-
cisions concerning the organization.
Many Mexicans emigrated to America in
search of greater opportunity for themselves
and their families. Many immigrants, citi-
zens of Mexican heritage brought with them
their faith, strong sense of family, and rich cul-
tural dance, and musical traditions and tal-
ents.

The Club Azteca has been a reflection of
the Mexican American community in the
Cleveland area for seven decades; its leaders
continue their dedication to the celebration
and promotion of Mexican heritage and continue
to provide cultural, educational and
social services to its members.
Mr. Speaker, I would like to
and resolve, undaunted
by acts of cowardice and hatred.
This gathering today is yet another step that
we as a community, indeed we as a nation,
are taking together to win this battle against the
assault on innocent civilians living in a free
sovereignty. While we continue to experience com-
peting emotions of sorrow, anger and frustra-
tion, we must face these acts to rob us of our
values and our spirit.
My colleagues and I will continue to work to-
gether with the President to bring about the
end of terrorism. We have the ability and the
wherewithal to confront this challenge as we
have met so many others in the past so that
when future generations pause in remem-
brance of this day in our history, they will do
so in the shelter of a just and free and united
country.

IN HONOR OF THE CLUB AZTECA
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002
Mr. KUCINICH, Mr. Speaker, I rise today to
onor and recognition of the Club Azteca of
Cleveland, Ohio, on the momentous occasion
and celebration of their 70th anniversary.
Club Azteca was formed in 1932 as a social
club that offered individuals and student faculties of
Mexican heritage an opportunity for support,
tertainment, and a continuation of the tradi-
tions and culture of Mexico—their beloved
Mr. McINNIS. Mr. Speaker, I would like to
take this opportunity to pay tribute to two
brothers who were recently honored by the
Alamosa County Sheriff’s Department and the
San Luis Valley Chapter of the American Red
Cross for saving the life of a disabled Blanca,
Colorado man at San Luis Lake. Frank Mar-
tinez and his brother Eli Martinez, both of
Capulin, Colorado saw three men in danger of
drowning in the San Luis Lake and with a he-
roic effort managed to rescue two of them.
Their acts of bravery and valor most certainly
deserve the recognition of this body of Con-
gress and this Nation.
On May 10, the Martinez brothers were en-
joying themselves with a day by the lake. Nearby,
Kelly Richard McNeil, 36, of Blanca was out boating with his son James Janus Ed-
ward McNeil, 16, and his son’s friend Adam Stark, 16. The Martinez brothers witnessed
Richard McNeil being blown from his boat into
waves that were as high as four feet. McNeil’s
son and his friend jumped in immediately to try
and help only to become victims of the
rough waters. The Martinez brothers drove as
close as they could and leaped into action.
Through their quick response the brothers
saved McNeil and helped Stark safely return
to the boat.
When presented with a certificate for their
extraordinary action and Red Cross skills, the
brothers simply expressed regret that they
could not save James too. Such heroics re-
flect the American values second nature to the
former Conejos law enforcement officer,
Frank, and his brother, Eli. Their efforts show
the mettle that keeps this country strong.
Mr. Speaker, it is a great honor to recognize
Frank and Eli Martinez for their courage and
heroic actions. Their efforts saved the lives of
their fellow man and their heroism is a tribute
to their fine character. It is my honor to bring
forth these acts of bravery for the praise of
this body of Congress.

Mr. McINNIS. Mr. Speaker, I would like to
honor and recognition of the Cuyahoga Coun-
ty Agricultural Society, for their creation, orga-
nization, support and promotion of the annual
Cuyahoga County Fair—now in its 106th year.
Although most of Cuyahoga County is no
longer agricultural, the two hundred members
of the Agricultural Society present the public
with a glimpse of the agriculture and farming
days gone by, as well as current and future
agricultural products and trends.
The Cuyahoga County Fair is an annual rite
of summer for the entire Cleveland commu-
nity. Reflecting the mission of the Cuyahoga
County Agricultural Society, the Fair is a year-
ly opportunity for children and adults to
experience and demonstrations of agricultural products, past
and present, that are unique to our
Community. Annual outings to the Fair, as families
have done for over one hundred years, provide all ages with a fun and educational experience, and create memories that connect each new generation of fair-goers.

Mr. Speaker, please join me in honor and recognition of the Cuyahoga County Agricultural Society, on the significant occasion of the Society’s 106th Annual Cuyahoga County Fair. The County Fair has provided millions of citizens the opportunity to explore the County’s agricultural existence in an educational, creative, and inviting manner. This annual event has been a culturally significant aspect of our entire community, and a wonderful event for citizens of all ages.

U.S. SHOULD REDUCE DEPENDENCE ON FOREIGN OIL BY REDUCING OIL DEMAND

HON. CIRO D. RODRIGUEZ
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. RODRIGUEZ. Mr. Speaker, the events of September 11 highlight the danger in continuing to ignore our oil dependence on other countries, especially our dependence on Middle East oil. More than 51 percent of the oil we use is imported. Our Nation is in a very vulnerable position, at the mercy of unstable regimes in the Middle East and other volatile regions. Our dependence on oil has many negative ramifications including the threatening of our environment and our economy.

Our oil dependency places a heavy burden on our environment. It contributes significantly to making the United States the world’s largest emitter of carbon dioxide, responsible for one-fourth of the world’s total global warming pollution. Our high demand for oil also pressures us to drill in our remaining unspoiled wilderness such as Utah’s Redrock canyon county and the Arctic Wildlife Refuge. Our land, water, wildlife and the livelihood of coastal communities are also threatened by oil spills, an inevitable consequence of oil transportation.

Our oil dependence is also very costly to our economy. The United States spent $106 billion on imported crude oil and petroleum products in 2000. That is equivalent to almost one third of the total U.S. trade deficit. Over the past 30 years, Americans have transferred $1.16 trillion of their wealth to oil-producing countries.

As we develop our energy policy, we must ensure that it is one that can both reduce oil use and its burden on our environment and economy. Shifting the drilling for oil from one country to another will not resolve our oil crisis. We need to reduce our oil dependence by utilizing innovative technologies that focus on reducing oil use such as gasoline-electric hybrid vehicles which get double the mileage of today’s cars. We must also encourage smart growth in our cities instead of suburban sprawl so that communities are more liveable with less driving.

The only effective way to reduce dependence on foreign oil, and at the same time protect our environment, is to reduce our oil demand. If we lower our oil consumption, more of America’s wealth will stay in this country.

IN HONOR OF THE 100TH ANNIVERSARY OF ST. NICHOLAS CROATIAN BYZANTINE CHURCH

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor, recognition and celebration of the 100th Anniversary of the Celebration of St. Nicholas Croatian Byzantine Church in Cleveland, Ohio. St. Nicholas Church has been a significant spiritual, cultural and historical anchor for Croatian immigrants for one hundred years. In 1902, fifty families, who had recently immigrated to Cleveland from Croatia founded St. Nicholas Church. Father Mile Golubic arrived in the United States to celebrate first Divine Liturgy in an old building converted to accommodate liturgical services in spring of 1902. Parishioners, though very poor financially, were wealthy in spirit, hope and determination. Parishioners and church leaders kept St. Nicholas Church alive through their generous donations and volunteerism.

In 1913, after years of challenges and difficulties for the fledgling church, members collected enough money to purchase a church building on the corner of East 36th Street and St. Clair—where St. Nicholas Church remains to this day. St. Nicholas Church has endured many changes over the past hundred years. The membership has increased considerably, and the church itself has been rebuilt and restored. Yet from its simplest beginnings as a group of Croatian immigrants—connected by faith, family, a past in Croatia and a future in America. The dreams, hopes, vision, and generous hearts that defined the founding members of St. Nicholas Church in the early days, carried the Church through a century, and remains the same today.

Mr. Speaker and colleagues, please join me in honor, recognition and celebration of St. Nicholas Croatian Byzantine Church, on the momentous and happy occasion of their 100th Anniversary. May St. Nicholas Church, and its leaders and parishioners, continue their dedication to the enhancement of the spiritual, historical and cultural life of Croatian Americans which continues to enhance our entire community.

IN RECOGNITION OF PHELPS DODGE IN GREEN VALLEY, ARIZONA

HON. JIM KOLBE
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KOLBE. Mr. Speaker, I am very pleased to rise today to congratulate the employees and management of Phelps Dodge Sierrita in Green Valley, Arizona. They are one of the eight mining operations to recently receive the prestigious annual “Sentinels of Safety” award in recognition of their outstanding safety records during 2001. Begun in 1925 by then-Secretary of Commerce Herbert Hoover, this award is highly sought after and is the oldest established award for occupational safety. I commend Phelps Dodge Sierrita for their efforts to work safely each and every day.

It is an award that is not easily won. Mining operations that receive the award achieve the highest number of employee work-hours without an injury that resulted in lost time from work. What this translates to is that a company must compile at least 30,000 employee work-hours during the year without a lost-time injury or fatality. Phelps Dodge Sierrita recorded a staggering 453,936 consecutive employee hours well beyond the minimum required to receive the award. They are a stellar example to us all.

IN HONOR OF THE TENTH ANNIVERSARY OF UKRAINE’S PROCLAMATION OF INDEPENDENCE

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise in honor and recognition of the tenth anniversary of the Ukraine Parliament’s brave and historic Proclamation of Independence.

The Ukraine Parliament embraced democracy, and declared independence under the visionary leadership of Leonid Kravchuk, on August 24, 1991—after years of Soviet rule. The Proclamation of Independence was followed by a nationwide referendum in which over 90% of Ukraine’s 53 million people voted in favor of independence and elected Kravchuk the first President of the Independent Ukraine. This courageous step ended centuries of foreign rule and allowed Ukraine to make tremendous strides towards freedom and democratic rule.

On this special day I recall the words of Ivan Plyushch, the Parliamentary chief as he proudly proclaimed at the 1991, inaugural ceremony, “A European State has appeared on the map, and its name is Ukraine!!” The bold actions of these patriotic leaders set a country that had known so much terror on a course of freedom, liberty and democracy.

Mr. Speaker, on this day of celebration, I also rise to honor the men and women who fought hard and suffered dearly in their country’s struggle to break the bonds of oppression, and who made the ultimate sacrifice for their country’s independence. I applaud their grandparents and parents dedication and bravery that the children of Ukraine breathe the air of freedom. I ask my colleagues to join me in honor and recognition of this momentous occasion.

IN HONOR OF THE TENTH ANNIVERSARY OF UKRAINE’S PROCLAMATION OF INDEPENDENCE

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today to pay tribute to a family company that has become a hallmark of civic virtue and quality through many years of service to their community. Campbell’s Flowers and Greenhouses has been an integral part of community life in Pueblo, Colorado, for nearly a century and it is with pleasure I honor them today.

German immigrant Gerhard Fleischer founded Campbell’s Flowers in the early 1900s...
under its original name, Fleischer's House of Flowers. His son, Wally, helped his father grow the business and moved it to its current location. But developing a business and selling flowers was not their only priority; they also helped cultivate a community. Gerhard planned every facet of the city's parks and Wally helped establish garden clubs, worked with city crews to landscape, and played Santa Claus amusing the local children at Christmas.

In 1958, the Fleischers sold the flower shop to Fred and Jim Campbell who changed the name, and the company continued to grow with the community it served. When current owner Gary and Kathy Stanifer purchased s Flowers along with partners in 1978, they kept the name and commitment to the community that came with it. By that time, Campbell's Flowers had already rooted itself deep into the economy and culture of Pueblo, and continues to stand out as mark of quality and excellence in the floral industry.

Mr. Speaker, I stand today to honor this company before this body of Congress and our Nation. Campbell's Flowers and Greenhouse, the horticulture, progressive civic and women who have made it what it is today, stand as beacons of American spirit and industry. They are an example to us all and worthy of our praise.

IN HONOR AND REMEMBRANCE OF CONGRESSMAN DON J. PEASE
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Congressman Don Pease, the leader, newspaperman, and professor—and most importantly—beloved family man, and friend and mentor to many.

As the long-time representative of District 13, Congressman Pease’s dedication to public service was characterized by integrity, hard work, creativity and kindness. His life-long commitment to progressive ideals and civic involvement began in his own community in the sixties, when he served two terms as a Councilman in the city of Oberlin. Shortly thereafter, Congressman Pease was elected to the Ohio State Senate, where he served until he was elected to represent the residents of Ohio’s District 13 as a United States Congressman. From 1976 to 1992, Congressman Pease worked toward the betterment of his constituents with determination, unwavering principles, and courage to take on controversial issues.

Congressman Pease was a gentleman and a scholar. His expertise and talent in the areas of writing, editing and managing a newspaper was clearly evident throughout his many years as writer and editor of the Oberlin News Tribune. During that time, Congressman Pease garnered several editing and newspaper awards. Later, Congressman Pease brought his experience and knowledge to Oberlin College, in the position of Visiting Distinguished Professor of Politics.

Mr. Speaker and colleagues, please join me in honor and remembrance of Congressman Don J. P. Pease, a truly outstanding individual, public servant, and above all—beloved husband, father, and friend. I extend my deepest condolences to his wife Jeanne and daughter Jennifer, and also to his extended family and friends.

HON. CHARLES W. “CHIP” PICKERING
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. PICKERING. Mr. Speaker, I rise today to pay tribute to Doctor Charles David Lee, a constituent of mine from Forest, Mississippi, who recently announced his retirement after 44 years of service as a general medical practitioner in Forest. Dr. Lee, affectionately known as “David” to his many friends, is the son of the late Chief Justice and Mrs. Percy Mercer Lee. He is a 1948 graduate of Forest High School, where he excelled, in both academics and athletics.

Doctor Lee’s undergraduate degree was attained at Mississippi College, and his Doctorate of Medicine was attained at Tulane University. While at Mississippi College, he was an outstanding athlete participating in football, basketball and baseball. He served as Captain of the football team his sophomore year, and during his junior year he was selected “Little All American” and at the same time picked up the nickname “Dixie Dave” which remains to this day. He has been recognized as one of Mississippi College’s most outstanding athletes in school history. Because of his athletic achievements, he was named to the Mississippi College Sports Hall of Fame in 1972.

Doctor Lee entered Tulane Medical School in 1951 and graduated 4th in his class in 1956. After graduating and completing his internship, Doctor Lee entered the U.S. Army Medical Corps as a Captain, and spent two years of service in Okinawa where he became an expert in the treatment of military divers. Because of his exemplary military service, Doctor Lee was encouraged by his military superiors to remain in the Army and make a career. After much thought and deliberation by he and his wife, Doctor Lee decided, to return to Forest and begin his medical practice. Doctor Lee was honorably discharged from the Army in 1958.

For 44 years Doctor Lee and his wife have faithfully served the Forest and Scott County community. He has focused on being a “patient’s doctor” and is recognized among his peers as being a caring and loving physician with a concerned bedside manner. Over this time span, Doctor Lee has delivered more than 2,000 babies, and has served as the team Doctor for the Forest High School football team for more than 41 years.

The commitment of Doctor Lee to the town of Forest, the Scott County community, and the state of Mississippi, as well as, his love for athletics, is legendary and recognized by all those around him. To show their love and appreciation for Doctor and Mrs. Lee, the town of Forest, in the early 90’s, named them “Citizens of the Year.”

Sid Salter, a close friend and newspaper reporter who normally accompanied Doctor Lee’s to the high school athletic events said, “Lee was the football game at home, or on the road in the last 43 years. He has treated more than three generations of Forest High School athletes.”

Doctor and Mrs. Lee are the parents of two children David Lee, Jr., and Margy Thaxton. They have two grandchildren, Jacob Lee and Joni Tillman and one great-grandson Reese Tillman. In retirement, Doctor Lee plans to fish, hunt and travel.

Mr. Speaker, it is indeed an honor for me to recognize, and call to the House’s attention a great doctor, a great athlete, and a fine Christian gentleman, my friend from Forest, Mississippi Doctor Charles David Lee.

IN HONOR AND REMEMBRANCE OF STEVE YOKICH
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today, in recognition and remembrance of Mr. Steve Yokich, former UAW President, family man, dedicated activist, and mentor to many. Mr. Yokich, an exceptional leader, leaves behind a rich legacy of enhancing, protecting, and tenaciously fighting for the rights of America’s auto workers. For over four decades, Mr. Yokich was the unwavering voice and champion of thousands of auto worker and their families.

As a highly skilled tool and die maker, Mr. Yokich began his career as a dedicated and vocal union activist. As he ascended the ranks of the UAW, his strong leadership skills, tough negotiating skills, and creative conflict resolution abilities served him and his memberships well in assisting the union in making major strides that greatly improved the lives of workers and their families. Additionally, Mr. Yokich procured strong relationships with other unions, including the United Steelworkers of America.

Mr. Speaker and colleagues, please join me in honor and remembrance of a truly outstanding individual. Mr. Steve Yokich, who dedicated forty-six years of his life toward the betterment of workers and their families. Please join me as I extend my sincerest condolences to the family and friends of Steve Yokich; and also to the members and leadership of the UAW—all of whom were witness to his personal integrity, tenacity, kindness and determination to help others.

SPECIAL JOINT MEETING OF CONGRESS SEPTEMBER 6, 2002
HON. PETER T. KING
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KING. Mr. Speaker, it is with great pride as an American and as a New Yorker that I commend my colleagues for taking part in this Special Joint Meeting of Congress in historic Federal Hall.

By meeting in this venerated hall in lower Manhattan—just blocks from where the Twin Towers of the World Trade Center were destroyed less than one year ago—the United States Senate and House of Representatives have demonstrated our governments lasting commitment to the people of New York. And by fighting back and emerging stronger than
ever, New Yorkers have demonstrated their grit, their courage and their determination. On September 11, 2001 New York took our enemy’s best shot and never waved or faltered. The police officers, fire fighters and all the rescue workers who raced into the inferno demonstrated unsurpassed courage and set the tone and standard for our nation and the world. Just as significantly, the families of the brave men and women who were murdered that day just because they went to work in the World Trade Center have demonstrated a class and dignity that defy comprehension.

None of us will ever forget where we were or what we were doing when we first heard the news of the terrorist attacks of September 11—the attack on the World Trade Center, the attack on the Pentagon and the bringing down of Flight 93 in Pennsylvania by uncommonly heroic passengers. Nor will we forget how our nation rallied behind President Bush as he commanded the war against international terrorism. That war will be waged on many battlefields and in many ways for many years to come. But we know that America will prevail. It will prevail in large part because of the fighting spirit that rose from the flames and smoke which engulfed lower Manhattan. And it is that spirit that the United States Congress has honored and acknowledged by holding this extraordinary session in Federal Hall. God Bless America.

IN HONOR AND REMEMBRANCE OF CHRISTINA SUNGA RYOOK

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor, recognition, and remembrance of Christina Sunga Ryook, whose young and vibrant life was tragically cut short on the darkest day in the history of America.

Despite their profound sorrow and pain, Dae Jin Ryook and Kyung Woo Ryook, father and mother of Christina, have found the courage to speak of their beloved daughter—to share their thoughts with the world, letting us know and understand the beauty within the heart, soul and spirit that characterized Christina.

Christina’s love for life, and love for her parents, extended family and close circle of friends, was a true gift—a gift she gave freely. She kindly extended her generosity, compassion and thoughtfulness to everyone she knew, and her kind and loving spirit will live on forever in all who knew her.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Christina Sunga Ryook, who possessed a profound sense of joy for life, and whose inner light radiates within the hearts of everyone who loves her. Please join me as I extend my deepest condolences to Christina’s beloved parents—Dae Jin Ryook and Kyung Woo Ryook. May you both find solace and comfort by the light and memories of your special, cherished and beloved daughter, Christina Sunga Ryook.

CONDEMNING THE ATTACK ON THE SWAMINARAYAN TEMPLE IN GUJARAT

HON. EDWARD R. ROYCE
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. ROYCE. Mr. Speaker, this week, the world witnessed yet another act of senseless violence. I rise as the Co-Chairman of the Congressional Caucus on India and Indian Americans to express my condolences to the families of the victims of the brutal attack on the Swaminarayan Temple in Gujarat.

Thirty-two—including many children—died in an attack in Gandhinagar. Last year, I led a congressional delegation to Gujarat immediately following the devastating earthquake that hit the state. From that trip and my dealings with the Gujarati community in the U.S., I have developed a deep fondness for the people of Gujarat.

During my visit, I visited the Swaminarayan Temple and witnessed first hand the efforts of the Swaminarayan Temple to assist victims of the earthquake. Our heart goes out to all Gujaratis harmed by this violent act.

The Swaminarayan organization was established in 1907. It is a religion that preaches religious tolerance and practical spirituality. I only wish that more people in this world shared those values.

IN HONOR AND REMEMBRANCE OF MADELINE L. RYAN

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Madeline L. Ryan, social and community activist, and above all, devoted wife, mother and grandmother, and friend to many.

Mrs. Ryan was born in Collinwood, Ohio, to working class parents who instilled values of social action and personal responsibility regarding the American labor movement.

While working and raising her three sons, Mrs. Ryan also found time to volunteer on behalf of workers’ rights. She was an active member of the Communications Workers of America, and later was elected Vice President of the CWA Retirees Club. She lived by example, teaching others that the path for change was action and involvement. Mrs. Ryan helped organize workers; she walked the picket line; attended countless meetings; and even traveled to Washington, DC, to lobby Congress to secure positive change on behalf of the CWA.

Mr. Speaker and colleagues, please join me in honor and remembrance of Madeline L. Ryan, whose eloquent dedication to social justice, in word and deed, significantly impacted all who knew her. I extend my deepest condolences to her beloved husband, Arthur Ryan, sons Michael, Jeff and John, and also to her grandchildren, great-grandchild, and extended family and friends. Mrs. Ryan’s devotion to family and community will never be forgotten.

CONGRATULATING THE CONGRESSIONAL COALITION ON ADOPTION INSTITUTE’S “ANGELS IN ADOPTION” PROGRAM AND THE HALLMARK CHANNEL

HON. JAMES L. OBERSTAR
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. OBERSTAR. Mr. Speaker, last night the Congressional Coalition on Adoption institute celebrated the fourth annual “Angels in Adoption” program. It was a remarkable celebration of the many heroes throughout the nation who have advanced the cause of adoption.

I had the great privilege to present to Lana Corbi, President and CEO of the Hallmark Channel, one of the 2002 National Angel Awards to recognize the Hallmark Channel’s outstanding contributions to promote adoption through their television programming.

There are many who made the “Angels in Adoption” event such a tremendous success, among whom I would like to commend my Congressional Coalition on Adoption Co-Chairs Senator Larry Craig and Senator Mary Landrieu for their leadership and advocacy. I would also like to thank Maxine Baker and the Freddie Mac Foundation, and Paul Singer and the Target Corporation for their generous sponsorship of the “Angels in Adoption” celebration.

I want to add a special word of thanks to Kenny Hasenbalg, the Executive Director of the Congressional Coalition on Adoption Institute, and her marvelous and dedicated staff (Wanda Brown, Cindy Cosby, Lynnette Richart, Jenni Byrd, and summer interns KaiLinn McNew and Emily Bonhoff) who gave so tirelessly of their time and talent to make this event such a success. I also wish to thank Chip Gardner of my staff, Brooke Roberts of Senator Craig’s staff and Kathleen Strotman of Senator Landrieu’s staff for their significant contributions to adoption advocacy.

Mr. Speaker, at this time I would like to enter in the RECORD my remarks from last week’s “Angels in Adoption” awards ceremony.

REPRESENTATIVE OBERSTAR’S PRESENTATION OF THE 2002 NATIONAL ANGEL IN ADOPTION AWARD TO THE HALLMARK CHANNEL

Tonight, we celebrate the men, women and children who have made profound contributions to adoption in their communities. Each Angel in Adoption has been deeply moved by this life-changing and life-affirming experience. For the Members of the Congressional Coalition on Adoption, tonight is our opportunity to recognize their story, their experience. We are a better nation, and the lives of countless children and families have been touched in a powerful manner through adoption.

I have seen many families in my congressional district in Minnesota that have been touched by adoption, and I am delighted to recognize one of my constituents, Linda Forde from Deerwood, Minnesota, for sharing her personal experience with adoption with us. Ms. Forde is an adoptive parent of two wonderful children who were born in Vietnam, and I am pleased to recognize her dedication to orphans who seek their forever families.
Adoption changes lives—it changes families, neighborhoods, and communities. Adoption has also changed attitudes and beliefs. Through the advocacy and dedication of adoptive families and professionals, adoption has changed our nation and our world. My colleagues and I have seen adoption officials of other nations, upon experiencing the joy of the children whom their government and people have allowed to be adopted by U.S. families, spontaneously make unexpected proclamations to expand their nation’s adoption programs. I have heard powerful testimony of children in our foster care system describe their heart-moving desire for a family. I have heard an adoptive parent say, “I also know the thrill and excitement of receiving ‘The Call’ that told us that our son Ted would soon be with us.”

The Nobel Prize-winning poet, Gabriella Mistral wrote: “We are guilty of many errors and faults, but our worst crime is abandoning children, neglecting the fountain of life. Many things we need can wait; the child cannot. To the child, we cannot answer: ‘Tomorrow.’ The child’s name is ‘Today’!” Those words have particular meaning for the more than 175,000 children in foster care who are available for adoption, and to whom we must say: “TODAY.”

Until recently, the wonderful opportunity experienced by children of these auspicious adoptions were unreal and intangible to those unfamiliar with adoption. The Hallmark Channel travels into the households of 45 million subscribers around the globe. Thanks to Hallmark, families in the United States and throughout the world now have the opportunity to see the real stories of adoptive families.

In June of this year, the Hallmark Channel initiated their first original series entitled “Adopted.” This non-scripted, reality program, that captures the journey and real life experience of birth parents, adopted children and adoptive parents. I want to commend and congratulate the Hallmark Channel for your leadership and vision to bring these great stories to life.

With the premiere of “Adoption,” Hallmark Channel has dedicated the network’s inaugural national corporate outreach initiative to supporting and creating grassroots programs dedicated to positively impacting awareness of adoption issues in the U.S. by providing the tools that enable viewers to make a difference in their communities, Hallmark Channel hopes to dispel the myths surrounding adoption and shed a positive light on the process. The Adoption initiative encompasses several elements that can be tailored to a variety of needs, including: turn-key promotions, public service announcements, educational tools, and programming elements to allow select markets to reach out and highlight relevant adoption stories in their community. This fall, as part of their corporate initiative, Hallmark will unveil a special ornament that celebrates adoption. They have generously included in each of your gift bags coupons that may be redeemed by mail for one of these ornaments.

At this time, I would like to direct your attention to the video monitors to see a short excerpt of the Hallmark Channel’s program from their wonderful “Adoption” series.

We are delighted to have Lana Corbi, President and CEO of Hallmark Channel, with us this evening to accept the 2002 National Angel in Adoption Award for the Hallmark Channel. Lana is a remarkable woman who has recently been named one of the “50 Most Powerful Black Executives in America” by Black Enterprise. The Congressional Coalition on Adoption Institute is very pleased to present this award to Lana Corbi in recognition of the Hallmark Channel’s outstanding contributions to raise adoption awareness through leadership in television programming.

UKRAINIAN AMERICAN VETERANS

HON. DENNIS J. KUCINICH
OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Ukrainian American Veterans, on the historic occasion of their 55th Annual National Convention.

American veterans of Ukrainian heritage have a rich and significant history in defending our nation’s democracy and freedoms, during times of peace and times of war. American veterans of Ukrainian descent have been an ongoing and vital source of strength in every branch of the United States military, dating back to the dawn of America.

Ukrainian American Veterans, here in Cleveland, and across our country, have reflected a dedication to promoting peace, goodwill, faith and community for all citizens.

Mr. Speaker and colleagues, please join me in honoring all Americans of Ukrainian heritage—especially our veterans—who proudly joined the United States Armed Forces to defend the liberties of America. Let us not ever forget those veterans, of every heritage, who made the ultimate sacrifice on behalf of all Americans. Today, I congratulate the Ukrainian American Veterans on this significant occasion of their 55th Annual National Convention.

The deep dedication to justice and significant contribution to American society by Ukrainian American Veterans has been, and continues to be, a vital strength within our community, and within our nation.

AMERICAN FRONTIERS: A PUBLIC LANDS JOURNEY

HON. THOMAS G. TANCREDO
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. TANCREDO. Mr. Speaker, a unique expedition is now underway West to draw attention to America’s public lands legacy.

“American Frontiers: A Public Lands Journey,” began July 31 and will conclude September 28 in Salt Lake City. Two teams of adventurers are traveling by foot, horseback, ATV, canoe, boat and bicycle entirely over public lands on this 3,000-mile trek. Along the way, they are sharing their experiences and thoughts with school children, local communities and the world via videophones and an interactive Internet website, www.americanfrontiers.net.

In Colorado, as in much of the rugged American West, our public lands play an important role in our lives, our economies, and our communities. We take pleasure in hiking, biking, skiing, rafting and hunting on public lands. And the natural resources on our public lands are a source of water, timber, timber, energy, minerals and livestock that support our unique quality of life. I applaud this effort to encourage a better understanding of the importance of America’s public lands spearheaded by the Public Lands Interpretive Association. Those participants in this endeavor who complete this journey should be congratulated for the pioneering and age-old spirit of the American West that they embody as they persevered along the trail.

I urge all Americans will join in celebrating our shared legacy—and the accomplishments of the American Frontiers adventurers—on National Public Lands Day, this Saturday, September 28.

TRIBUTE TO BISHOP BEUFORD J. TERRY

HON. DENNIS J. KUCINICH
OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Bishop Beauford J. Terry, on the occasion of his consecration to the office of Jurisdictional Bishop of the Ohio Northeast Ecclesiastical Jurisdiction.

Bishop Terry, who is also the Presiding Prelate to the Ohio Northeast Ecclesiastical Jurisdiction, has dedicated his life to not only the spiritual enrichment of his congregation, but also to the overall enrichment and improvement of the East Cleveland community.

Bishop Terry continues to demonstrate his commitment and dedication to his faith, and to the individuals and families he serves. He is an example of the reason why the Church, the Community Temple Church of God in Christ, is an ongoing source of comfort and inspiration for its members. Moreover, Bishop Terry provides a light of hope and beacon of possibility for the entire East Cleveland neighborhood.

Mr. Speaker, please join me in honor and recognition of Bishop Beauford J. Terry, on the momentous occasion of his consecration to the office of Jurisdictional Bishop of the Ohio Northeast Ecclesiastical Jurisdiction. Bishop Terry’s life-long dedication to helping others, as well as his spiritual guidance, generosity, and activism, significantly inspires the lives of his family, friends and congregation, and continues to positively impact our entire community.
to build new communities and opportunities for themselves in the United States.

It was through sheer determination and hard work that many Korean Americans have been able to thrive in America, invigorating businesses, churches and academic communities throughout the United States. According to the United States Census, Korean Americans own and operate 135,571 businesses across the nation that have gross sales of $46,000,000,000 annually and employ 333,649 individuals.

Korean Americans have also left an indelible mark in our communities and government. Korean American community activists such as Angela Oh and Bong Hwan Kim worked tirelessly to bridge the racial tensions during the Los Angeles riots of 1992.

The Korean-American population of the U.S. has greatly added to the rich fabric of our Nation. I want to take this opportunity to commend Korean Americans for their historical and cultural contributions to this Nation, and again urge a YES vote on this resolution.

SPANISH AMERICAN COMMITTEE

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Spanish American Committee, as they celebrate thirty-five years of service to Hispanic Americans in the Cleveland area.

Established in 1966, the Spanish American Committee, a United Way agency, is the oldest and largest non-profit social service organization in Ohio, existing to provide assistance for citizenry of Hispanic/Latino heritage in Northeast Ohio. This invaluable agency, comprised of caring, dedicated and hardworking individuals, provides essential services that improve the lives of families and individuals.

Since the dawn of our nation, citizens of Hispanic/Latino heritage have greatly contributed to, and enhanced, every facet of our society. And through their meaningful action, the members of this worthy organization have elevated the quality of life for thousands of Hispanic/Latino individuals and families. Some of the significant services provided by the Spanish American Committee include: Counseling and crisis intervention, employment services, daycare services, job referrals, housing services, tenant and landlord counseling, English language classes, translation services, and voter education and registration.

Mr. Speaker and colleagues, please join me in honor, recognition and admiration of the Spanish American Committee, as we join them in celebration of their 35th Anniversary. Please join me as I extend my deepest admiration and congratulations to the Spanish American Society, as its members continue to empower and assist Hispanic Americans to secure a brighter future for themselves—casting a light of hope and accomplishment over our entire community.
HIGHLIGHTS

The House agreed to the conference report on H.R. 2215, Department of Justice Authorization.

House Committee ordered reported the District of Columbia appropriations for fiscal year 2003.

Senate

Chamber Action

Routine Proceedings, pages S9355–S9560

Measures Introduced: Eight bills and two resolutions were introduced, as follows: S. 3007–3014, S.J. Res. 45, and S. Con. Res. 148.

Measures Reported:

H.R. 2595, to direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia.

H.R. 4044, To authorize the Secretary of the Interior to provide assistance to the State of Maryland and the State of Louisiana for implementation of a program to eradicate or control nutria and restore marshland damaged by nutria.

H.R. 4727, to reauthorize the national dam safety program.

Measures Passed:

Technical Corrections: Senate agreed to H. Con. Res. 483, directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1646.

Veterans’ and Survivors Benefits Expansion Act: Committee on Veterans’ Affairs was discharged from further consideration of H.R. 4085, to increase, effective as of December 1, 2002, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and the bill was then passed, after agreeing to the following amendment proposed thereto:

Reid (for Rockefeller) Amendment No. 4837, in the nature of a substitute.

Veterans’ Benefits Improvement Act: Senate passed S. 2237, to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, and to improve the administration of benefits for veterans, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto:

Reid (for Rockefeller) Amendment No. 4838, in the nature of a substitute.

Homeland Security Act: Senate continued consideration of H.R. 5005, to establish the Department of Homeland Security, taking action on the following amendments proposed thereto:

Pending:

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

Gramm/Miller Amendment No. 4738 (to Amendment No. 4471), of a perfecting nature, to prevent terrorist attacks within the United States.

Nelson (NE.) Amendment No. 4740 (to Amendment No. 4738, to modify certain personnel provisions.)
Daschle motion to commit the bill to the Committee on Governmental Affairs and that it be reported back forthwith with the pending Lieberman Amendment No. 4471, listed above, as amended.

Daschle Amendment No. 4742 (to the instructions of the motion to commit H.R. 5005 to the Committee on Governmental Affairs), of a perfecting nature, to prevent terrorist attacks within the United States.

Daschle Amendment No. 4743 (to Amendment No. 4742), to modify certain personnel provisions.

Daschle motion to reconsider the vote (Vote No. 227) by which cloture was not invoked on Gramm/Miller Amendment No. 4738 (to Amendment No. 4471), listed above, and the motion to reconsider was then agreed to.

By 50 yeas to 49 nays (Vote No. 226), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate, upon reconsideration, failed to approve the motion to close further debate on Lieberman Amendment No. 4471, listed above.

By 44 yeas to 53 nays (Vote No. 227), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate, upon reconsideration, failed to approve the motion to close further debate on Lieberman Amendment No. 4471, listed above.

A second motion was entered to close further debate on Gramm/Miller Amendment No. 4738 (to Amendment No. 4471), listed above and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Monday, September 30, 2002.

A unanimous-consent agreement was reached providing for further consideration of the bill at 2 p.m., on Monday, September 30, 2002.

Foreign Relations Authorization Conference Report: Senate agreed to the conference report on H.R. 1646, to authorize appropriations for the Department of State for fiscal years 2002 and 2003, clearing the measure for the President.

Continuing Resolution—Agreement: A unanimous-consent agreement was reached providing that when the Senate receives from the House H.J. Res. 111, making continuing appropriations for the fiscal year 2003, the resolution be read three times and passed.

Intelligence Authorization—Additional Conferees: A unanimous-consent agreement was reached providing for the following additional conferees to H.R. 4628, to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System: from the Committee on Armed Services—Senators Reed and Warner.

Nominations Confirmed: Senate confirmed the following nominations:

Michelle Guillermin, of Maryland, to be Chief Financial Officer, Corporation for National and Community Service.

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Milton Aponte, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2003.

Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

David Wenzel, of Pennsylvania, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Messages From the House:

Measures Referred:

Measures Read First Time:

Petitions and Memorials:

Executive Reports of Committees:

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:
Committee Meetings

(Business Meeting)

Committee on Environment and Public Works: Committee ordered favorably reported the following bills:

S. 606, to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency; with an amendment in the nature of a substitute.

S. 2928, to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 2000 to modify provisions relating to the Lake Champlain basin; with amendments.

H.R. 1070, to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes; with an amendment in the nature of a substitute.

H.R. 3908, to reauthorize the North American Wetlands Conservation Act; with amendments.

H.R. 4807, to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge; with amendments.

S. 2983, to authorize a project for navigation, Chickamauga Lock and Dam, Tennessee; with an amendment.

S. 2847, to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes; with amendments.

S. 2897, to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries; with amendments.

H.R. 4044, to authorize the Secretary of the Interior to provide assistance to the State of Maryland and the State of Louisiana for implementation of a program to eradicate or control nutria and restore marshland damaged by nutria;

S. 2065, to provide for the implementation of air quality programs developed pursuant to an Intergovernmental Agreement between the Southern Ute Indian Tribes and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation;

S. 2975, to authorize the project for hurricane and storm damage reduction, Morganza, Louisiana, to the Gulf of Mexico, Mississippi River and Tributaries;

S. 2978, to modify the project for flood control, Little Calumet River, Indiana;

S. 2984, to modify the project for flood control, Little Calumet River, Indiana;

S. 2999, to authorize a project for environmental restoration at Smith Island, Maryland;

S. 2999, to authorize the project for environmental restoration, Pine Flat Dam, Fresno County, California;

H.R. 2595, to direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia;

H.R. 4727, to reauthorize the national dam safety program;

S. 2715, to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001;

S. 2730, to modify certain water resources projects for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida and Alabama; and

S. 2332, to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Youngstown, Ohio, as the “Nathaniel R. Jones Federal Building And United States Courthouse”; with an amendment in the nature of a substitute.

U.S.-IRAQ POLICY


INTERNET EDUCATION

Committee on Health, Education, Labor, and Pensions: Committee concluded hearings to examine the benefits and challenges of web-based education, growth in distance education programs and implications for federal education policy, and exploring the benefits and challenges of web-based education, after receiving testimony from Cornelia M. Ashby, Director, Education, Workforce, and Income Security Issues,
General Accounting Office; A. Frank Mayadas, Alfred P. Sloan Foundation, New York, New York; Robert W. Mendenhall, Western Governors University, Salt Lake City, Utah; and Stephen G. Shank, Capella University, Minneapolis, Minnesota.

INTRA-TRIBAL LEADERSHIP DISPUTES AND TRIBAL GOVERNANCE

Committee on Indian Affairs: Committee concluded oversight hearings on intra-tribal leadership disputes and the role of the Bureau of Indian Affairs in resolving those disputes, after receiving testimony from Aurene M. Martin, Deputy Assistant Secretary of the Interior for Indian Affairs; Donna Marie Potts, Buena Vista Rancheria, Ione, California; and Derril Jordan, Stetson Law Office, Washington, D.C.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit, Stanley R. Chesler, to be United States District Judge for the District of New Jersey, Daniel L. Hovland, to be United States District Judge for the District of North Dakota, James E. Kinkeade, to be United States District Judge for the Northern District of Texas, Linda R. Reade, to be United States District Judge for the Northern District of Iowa; and Freda L. Wolfson, to be United States District Judge for the District of New Jersey, after the nominees testified and answered questions in their own behalf. Mr. Estrada was introduced by Senators Warner and Allen, Mr. Chesler and Ms. Wolfson were introduced by Senator Corzine, Mr. Hovland was introduced by Senator Dorgan, Mr. Kinkeade was introduced by Senators Gramm and Hutchison, and Ms. Reade was introduced by Senators Grassley and Harkin.

LONG-TERM CARE

Special Committee on Aging: Committee concluded hearings to examine issues related to long-term health care, focusing on care options and current provisions of long-term care, and the role of the public sector in assuring the needs of the impending surge of the baby boom generation, after receiving testimony from Kathryn G. Allen, Director, Health Care-Medicaid and Private Health Insurance Issues, General Accounting Office; Shannon Broussard, Cajun Area Agency on Aging, Inc., Lafayette, Louisiana, on behalf of the National Association of Area Agencies on Aging; Lisa Yagoda, National Association of Social Workers, Washington, D.C.; and Kevin Stevenson, Silver Spring, Maryland.
House of Representatives

Chamber Action


Pages H6775–77

Reports Filed: Reports were filed today as follows:

Page H6775

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Dr. K. Eric Perrin of Cornerstone Presbyterian Church, Columbia, South Carolina.

Journal: The House agreed to the Speaker’s approval of the Journal by a recorded vote of 346 ayes to 58 noes, Roll No. 417.

Pages H6695, H6703–04

Department of Justice Authorization Conference Report: The House agreed to the conference report on H.R. 2215, to authorize appropriations for the Department of Justice for fiscal year 2003 by a yea-and-nay vote of 400 yeas to 4 nays, Roll No. 422.

Pages H6743–51

Motion to Instruct Conferences—Help America Vote Act: The House agreed to the Eddie Bernice Johnson motion to instruct conferees on H.R. 3295, Help America Vote Act to take such actions as may be appropriate to ensure that a conference report is filed on the bill prior to October 1, 2002 by a yea-and-nay vote of 385 yees to 16 nays, Roll No. 418. The motion was debated on Sept. 25.

Pages H6704–05

Help Efficient, Accessible, Low Cost, Timely Healthcare Act: The House passed H.R. 4600, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system by a yea-and-nay vote of 217 yees to 203 nays, Roll No. 421.

Pages H6720–43

Rejected the Conyers motion to recommit the bill to the Committees on the Judiciary and Energy and Commerce with instructions to report it back to the House forthwith with an amendment that provides that the Act will not preempt or supersede any state law that provides for the liability of health maintenance organizations by a yea-and-nay vote of 193 yees to 225 nays, Roll No. 420.

Pages H6741–43

Pursuant to the rule, in lieu of the amendments recommended by the Committees on the Judiciary and Energy and Commerce now printed in the bill (H. Rept. 107–693, Parts I and II), the amendment in the nature of a substitute printed in H. Rept. 107–697 was considered as adopted.

H. Res. 553, the rule that provided for consideration of the bill was agreed to by a yea-and-nay vote of 221 yees to 197 nays, Roll No. 419.

Pages H6705–20


Earlier agreed to consider the joint resolution by unanimous consent.

Pages H6751–53

Legislative Program for the Week of Sept. 30: The Chief Deputy Majority Whip announced the legislative program for the week of Sept. 30.

Pages H6768–69

Meeting Hour—Monday, Sept. 30: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, Sept. 30.

Page H6769

Meeting Hour—Tuesday, Oct. 1: Agreed that when the House adjourns on Monday, it adjourn to meet at 10:30 a.m. on Tuesday, Oct. 1 for morning hour debate.

Pages H6769–70

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, Oct. 2.

Page H6770

Order of Business—Vacancies in the House in the Event of a Catastrophe: Agreed that it be in order at any time to consider in the House H. Res. 559, expressing the sense of the House of Representatives that each State should examine its existing statutes, practices, and procedures governing special elections so that, in the event of a catastrophe, vacancies in the House of Representatives may be filled in a timely fashion; that the resolution be considered as read for amendment; debatable for 90 minutes equally divided among and controlled by the Chairman and ranking minority member of the Committee on House Administration, Representative Cox of California and Representative Frost of Texas; and that the previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

Page H6769

Late Reports—Committee on the Judiciary: The Committee on the Judiciary received permission to have until midnight on Monday, Sept. 30 to file reports on H.R. 4561, Federal Agency Protection of
Privacy Act and H.R. 4125, Federal Courts Improvement Act.

Late Report—Committee on Transportation and Infrastructure: The Committee on Transportation and Infrastructure received permission to have until midnight on Monday, Sept. 30 to file a report on H.R. 5428, to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States.

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Hansen or if not available to perform this duty, Representative Thornberry to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 1, 2002.

Quorum Calls—Votes: Seven yea-and-nay votes and one recorded vote developed during the proceedings of the House today and appear on pages H6703, H6703–04, H6704–05, H6719, H6742–43, H6743, H6750–51, and H6768. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 8:17 p.m.

Committee Meetings

REVIEW TOBACCO BUYOUT PROPOSALS

Committee on Agriculture: Subcommittee on Specialty Crops and Foreign Agriculture held a hearing to Review Tobacco Buyout Proposals. Testimony was heard from Representatives Fletcher, Goode, Hill and McIntyre; and public witnesses.

DISTRICT OF COLUMBIA AND TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Ordered reported the District of Columbia appropriations for fiscal year 2003. The Committee also began markup of the Transportation appropriations for fiscal year 2003. Will continue October 1.

U.S. POLICY TOWARD IRAQ

Committee on Armed Services: Continued hearings on U.S. Policy toward Iraq. Testimony was heard from the following former officials of the Department of Defense: Richard Perle, Assistant Secretary, International Security Policy; and Gen. Wesley K. Clark, USA (Ret.).

Hearings continue October 2.

EMPLOYMENT AND LABOR LAW—EMERGING TRENDS

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations held a hearing on “Emerging Trends in Employment and Labor Law: Examining the Need for Greater Workplace Security and the Control of Workplace Violence.” Testimony was heard from Eugene Rugala, Supervisory Special Agent, Critical Incident Response Group, FBI Academy, Department of Justice; and public witnesses.

E-COMMERCE—STATE IMPEDIMENTS

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled “State Impediments to E-Commerce: Consumer Protection or Veiled Protectionism?” Testimony was heard from Ted Cruz, Director, Office of Policy Planning, FTC; and public witnesses.

U.S. AND MEXICO AGREEMENT AMENDMENTS—BORDER ENVIRONMENT COOPERATION COMMISSION AND NORTH AMERICAN DEVELOPMENT BANK

Committee on Financial Services: Ordered reported, as amended, H.R. 5400, to authorize the President of the United States of America to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank.

ATTENTION DEFICIT/HYPERACTIVITY DISORDERS—ARE CHILDREN BEING OVERMEDICATED?

Committee on Government Reform: Held a hearing on “Attention Deficit/Hyperactivity Disorders—Are Children Being Overmedicated?” Testimony was heard from Richard K. Nakamura, Acting Director, National Institute of Mental Health, NIH, Department of Health and Human Services; and public witnesses.

INTELLECTUAL PROPERTY PIRACY

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on “Piracy of Intellectual Property on Peer-to-Peer Networks.” Testimony was heard from public witnesses.

SENSE OF CONGRESS RESOLUTION—ATLANTIC MARLIN—CONSERVATION AND MANAGEMENT MEASURES

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on
H. Con. Res. 427, expressing the sense of the Congress regarding the imposition of sanctions on nations that are undermining the effectiveness of conservation and management measures for Atlantic marlin adopted by the International Commission for the Conservation of Atlantic Tunas and that are threatening the continued viability of United States commercial and recreational fisheries. Testimony was heard from William Hogarth, Assistant Administrator, Fisheries, National Marine Fisheries Service, NOAA, Department of Commerce and Federal Government Commissioner, International Commission for the Conservation of Atlantic Tunas (ICCAT); and public witnesses.

NATION’S HIGHWAY AND TRANSIT SYSTEMS STATUS
Committee on Transportation and Infrastructure: Subcommittee on Highways and Transit held a hearing on the Status of the Nation’s Highway and Transit Systems: Capital and Maintenance Needs. Testimony was heard from the following officials of the Department of Transportation: Mary E. Peters, Administrator, Federal Highway Administration; and Robert Jamison, Deputy Administrator, Federal Transit Administration; and Kate Siggerud, Acting Director, Physical Infrastructure Issues, GAO.

DEPARTMENT OF VETERANS AFFAIRS—INFORMATION TECHNOLOGY PROGRAM
Committee on Veterans’ Affairs: Subcommittee on Oversight and Investigations held a hearing on the Department of Veterans Affairs Information Technology (IT) program. Testimony was heard from the following officials of the Department of Veterans Affairs: Richard J. Griffin, Inspector General; and John A. Gauss, Assistant Secretary, Information Technology; and Joel C. Willemssen, Managing Director, Information Technology Issues, GAO.

SOCIAL SECURITY DISABILITY PROGRAMS’ CHALLENGES AND OPPORTUNITIES
Committee on Ways and Means, Subcommittee on Social Security continued hearings on Social Security Disability Programs Challenges and Opportunities, with emphasis on the implementation of the Ticket to Work and Work Incentives Improvement Act. Testimony was heard from the following officials of the SSA: Martin Gerry, Deputy Commissioner, Disability and Income Security Programs; and Sarah Wiggins Mitchell, Chair, Ticket to Work and Work Incentives Advisory Panel; Charlene Dwyer, Administrator, Vocational Rehabilitation, Department of Workforce Development, State of Wisconsin; Dan O’Brien, Program Manager, Ticket to Work and Community Rehabilitation, Department of Rehabilitation Services, State of Oklahoma; and public witnesses.

Joint Meetings
9/11 INTELLIGENCE INVESTIGATION
Joint Hearing: Senate Select Committee on Intelligence continued joint hearings with the House Permanent Select Committee on Intelligence to examine activities of the U.S. Intelligence Community in connection with the September 11, 2001 terrorist attacks on the United States, after receiving testimony from Dale L. Watson, Executive Assistant Director, Counterterrorism and Counterintelligence, Federal Bureau of Investigation; and Cofer Black, former Director for Counterterrorism Center, Central Intelligence Agency.
Hearings continue on Tuesday, October 1.

SECURING AMERICA’S FUTURE ENERGY ACT
Conferees met to resolve the differences between the Senate and House passed versions of H.R. 4, to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, but did not complete action thereon, and will meet again on Tuesday, October 1.

COMMITTEE MEETINGS FOR FRIDAY, SEPTEMBER 27, 2002
(Committee meetings are open unless otherwise indicated)

Senate
Committee on Armed Services: to hold hearings to examine the nominations of General James L. Jones, Jr., USMC, for reappointment to the grade of general and to be Commander, United States European Command and Supreme Allied Commander, Europe, Admiral James O. Ellis, Jr., USN, for reappointment to the grade of admiral and to be Commander, United States Strategic Command, Lieutenant General Michael W. Hagee, USMC, for appointment to the grade of general and to be Commandant of the Marine Corps, Charles S. Abell, of Virginia, to be Deputy Under Secretary of Defense for Personnel and Readiness, Thomas Forrest Hall, of Oklahoma, to be Assistant Secretary of Defense for Reserve Affairs, and Charles E. Erdmann, of Colorado, to be a Judge of the United States Court of Appeals for the Armed Forces, 9 a.m., SH–216.

Committee on Governmental Affairs: Subcommittee on International Security, Proliferation and Federal Services, to hold hearings to examine the annual report of the Postmaster General, focusing on the Postal Service Transformation Plan, the progress of cleaning anthrax-contaminated postal facilities, and further steps the Postal Service
will take to reduce debt and increase financial transparency, 10 a.m., SD–342.

House

Committee on Government Reform: Subcommittee on Technology and Procurement Policy, hearing titled "An Oversight hearing to Review the Findings of the Commercial Activities Panel," 1:30 p.m., 2154 Rayburn.

CONGRESSIONAL PROGRAM AHEAD

Week of September 30 through October 5, 2002

Senate Chamber

On Monday, Senate will resume consideration of H.R. 5005, Homeland Security Act.

During the balance of the week, Senate will also consider any other cleared legislative and executive business, including appropriations bills and conference reports, when available.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Agriculture, Nutrition, and Forestry: October 3, to hold hearings to examine the nomination of Nancy C. Pellett, of Iowa, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, 11 a.m., SR–328A.

Committee on Commerce, Science, and Transportation: October 1, to hold hearings to examine the government’s role in promoting the future of the telecommunications industry and broadband deployment, 9:30 a.m., SR–253.

Committee on Environment and Public Works: September 30, Subcommittee on Transportation, Infrastructure, and Nuclear Safety, to hold hearings to examine the conditions and performance of the federal-aid highway system, 10 a.m., SD–406.

October 1, Full Committee, to hold hearings to examine environmental standards for schools such as school siting in relation to toxic waste sites and green building codes, focusing on environmental and energy concerns relevant to school properties, 10 a.m., SD–406.

October 2, Full Committee, to hold hearings to examine the status and studies of the health impacts of fine particles which result from fuel combustion from motor vehicles, power generation, and industrial facilities, as well as from residential fireplaces and wood stoves, known as PM–2.5, focusing on those effects associated with power plant emissions, 2 p.m., SD–406.

Committee on Indian Affairs: October 1, business meeting to consider S. 2799, to provide for the use of and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community; S. 2743, to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona; the nominations of Philip N. Hogen, of South Dakota, to be Chairman of the National Indian Gaming Commission, and Quanah Crossland Stamps, of Virginia, to be Commissioner of the Administration for Native Americans, Department of Health and Human Services, and other pending calendar business, 2:30 p.m., SR–485.

Select Committee on Intelligence: October 1, to resume joint hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., SH–216.

Committee on the Judiciary: October 1, to hold hearings to examine recent Supreme Court jurisprudence on federalism issues, 10 a.m., SD–226.

October 1, Subcommittee on Immigration, to hold hearings to examine the detention and treatment of Haitian asylum seekers, 2:15 p.m., SD–226.

October 2, Full Committee, to hold hearings to examine protecting children from child pornography, 10 a.m., SD–226.

Committee on Rules and Administration: October 3, to hold hearings to examine the nomination of Bruce R. James, of Nevada, to be Public Printer, Government Printing Office, 9 a.m., SR–301.

House Chamber

To be announced.

House Committees

Committee on Agriculture: October 2, Subcommittee on Department Operations, Oversight, Nutrition and Forestry, hearing on Invasive Species, 10 a.m., 1300 Longworth.

Committee on Appropriations, October 1, to continue markup of the Transportation appropriations for fiscal year 2003, 2 p.m., 2359 Rayburn.

Committee on Armed Services, October 2, to continue hearings on U.S. Policy towards Iraq, 10 a.m., 2118 Rayburn.

Committee on Education and the Workforce, October 1, Subcommittee on 21st Century Competitiveness, hearing on “Assuring Quality and Accountability in Postsecondary Education: Assessing the Role of Accreditation,” 2:30 p.m., 2175 Rayburn.

October 2, full Committee, hearing on “The Rising Price of a Quality Postsecondary Education: Fact or Fiction,” 2 p.m., 2175 Rayburn.

Committee on Energy and Commerce, October 1, Subcommittee on Oversight and Investigations, to continue hearings entitled “Capacity Swaps by Global Crossing and Qwest: Sham Transactions Designed to Boost Revenues?” 9 a.m., 2322 Rayburn.

October 1, Subcommittee on Telecommunications and the Internet, hearing entitled “Recording Industry Marketing Practices: A Check-up,” 10 a.m., 2123 Rayburn.
Committee on Government Reform, October 1, Subcommittee on National Security, Veterans' Affairs and International Relations, hearing on Chemical and Biological Equipment: Preparing for a Toxic Battlefield, 10 a.m., and, executive, to continue hearings on Chemical and Biological Equipment: Preparing for a Toxic Battlefield, 1 p.m., 2247 Rayburn.

October 2 and 3, full Committee, hearings on “Americans Kidnapped to Saudi Arabia: Is the Saudi Government Responsible?” 10 a.m., 2154 Rayburn.

October 3, Subcommittee on Criminal Justice, Drug Policy and Human Resources, hearing on “Responding to West Nile Virus: Public Health Implications and Federal Response,” 2 p.m., 2154 Rayburn.

Committee on International Relations, October 3, hearing on Russia and the Axis of Evil: Money, Ambition, and U.S. Interests, 10:15 a.m., 2172 Rayburn.

Committee on the Judiciary, October 1, Subcommittee on Crime, Terrorism and Homeland Security, hearing and markup of H.R. 5422, Child Abduction Prevention Act, 4 p.m., 2237 Rayburn.

October 3, Subcommittee on the Constitution, oversight hearing on “A Judiciary Diminished is Justice Denied: the Constitution, the Senate, and the Vacancy Crisis in the Federal Judiciary,” 10 a.m., 2237 Rayburn.


Committee on Resources, October 3, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on the Coastal America program, and on the transfer of certain NOAA property to the Board of Trustees of the California State University, 10 a.m., 1324 Longworth.

Committee on Science, October 2, hearing on Meeting the Needs of the Fire Services: H.R. 3992, to establish the SAFER Firefighter Grant Program and H.R. 4548, to amend the Federal Fire Prevention and Control Act of 1974 with respect to firefighter assistance, 10 a.m., 2318 Rayburn.

October 3, Subcommittee on Space and Aeronautics, hearing on the Threat of Near-Earth Asteroids, 10 a.m., 2318 Rayburn.

Committee on Small Business, October 3, hearing entitled “CMS Regulation of Healthcare Services,” 2 p.m., 2360 Rayburn.

Committee on Veterans’ Affairs, October 2, Subcommittee on Health, hearing on VA’s current programs for women veterans, 9:30 a.m., 334 Cannon.

Committee on Ways and Means, October 3, Subcommittee on Health, hearing on Medicare Payments for Currently Covered Prescription Drugs, 10 a.m., 1100 Longworth.

Joint Meetings

Conference: October 1, meeting of conferees on H.R. 4, to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, 3 p.m., SR–325.

Joint Meetings: October 1, Senate Select Committee on Intelligence, to resume joint hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., SH–216.
Extensions of Remarks, as inserted in this issue

HOUSE
Barcia, James A., Mich., E1661
Bilirakis, Michael, Fla., E1662
Brady, Robert A., Pa., E1663
Brown, Henry E., Jr., S.C., E1664
Calvert, Ken, Calif., E1665
Cannon, Chris, Utah, E1663
Coney, John, Jr., Mich., E1664
Filner, Bob, Calif., E1665
Gekas, George W., Pa., E1666
Hoyer, Steny H., Md., E1667
Kennedy, Mark R., Minn., E1668
King, Peter T., N.Y., E1668
Kolbe, Jim, Ariz., E1669
Kucinich, Dennis J., Ohio, E1670
Lewis, Jerry, Calif., E1663
McNulty, Scott, Colo., E1667
Maloney, Carolyn B., N.Y., E1668
Nethercutt, George R., Jr., Wash., E1669
Oberstar, James L., Minn., E1670
Pelosi, Nancy, Calif., E1667
Peterson, John, Ia., E1670
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