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Senate

The Senate was not in session today. Its next meeting will be held on Tuesday, January 7, 2003, at 12 noon.

House of Representatives

FRIDAY, NOVEMBER 22, 2002

The House met at 11 a.m. and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 22, 2002.

I hereby appoint the Honorable MAC THORNBERY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord of history and Creator of all, America's Thanksgiving prayer has grown mightily since first heard from Pilgrim voices.

NOTICE

If the 107th Congress, 2d Session, adjourns sine die on or before November 22, 2002, a final issue of the Congressional Record for the 107th Congress, 2d Session, will be published on Monday, December 16, 2002, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 13. The final issue will be dated Monday, December 16, 2002, and will be delivered on Tuesday, December 17, 2002.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at ''Record@Sec.Senate.gov''.

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–60.

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By order of the Joint Committee on Printing.

MARK DAYTON, *Chairman.*

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Printed on recycled paper.

Our freedom of religion in this great land has expanded the expression of faith and gratitude of its people. Our freedom of assembly has gathered men, women, and children down through the years from different nations, languages, and from different economic and educational backgrounds to say in unison: ''Thank You, Lord.''

Our freedom of speech is conditioned by our prayer to You converting hearts to speak with compassion and forgiveness to family and neighbor alike. Our freedom to bear arms is restricted by Your wisdom to defend and protect deeper values such as life and justice.

Around tables throughout this land and the years, prayer has ushered in conversation, decisions, and the establishment of the great American experiment in government. Today, across the tables of this Chamber, we give You thanks for the 107th Congress of the United States of America.

Dear Lord, may our Thanksgiving prayer this year renew deep gratitude in the hearts of all Americans for our many blessings. Deliver us Lord from fear, war, and prejudice of every kind, that we might truly live as Your free children giving You thanks and praise now and for ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Indiana (Mr. BURTON) come forward and lead the House in the Pledge of Allegiance.

Mr. BURTON of Indiana 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 amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 37. An act to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails.

H.R. 695. An act to establish the Oil Region National Heritage Area.

H.R. 980. An act to establish the Moccasin Bend National Historic Site in the State of Tennessee as a unit of the National Park System.

H.R. 1606. An act to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for Historically Black Colleges and Universities, to decrease the matching requirement related to such appropriations, and for other purposes.

H.R. 1989. An act to reauthorize various fishing conservation management programs, and for other purposes.

H.R. 5005. An act to establish the Department of Homeland Security, and for other purposes.

The message also announced that the Senate has passed bills and concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. 12. An act to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

S. 13. An act to extend authorization for the national flood insurance program.

S. 14. An act to amend the Agricultural Adjustment Act of 1938 to extend the farm reconstitution provision to the 2003 and 2004 crops.

S. 198. An act to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

S. 606. An act to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency.

S. 1340. An act to amend the Indian Land Consolidation Act to provide for probate reform with respect to trust or restricted lands.

S. 1816. An act to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes.

S. 2063. An act to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites.

S. 2222. An act to resolve certain conveyance and provide for alternative land selection under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

S. 2556. An act to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

S. 2577. An act to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime,

S. 2670 An act to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West.

S. 2711. An act to reauthorize and improve programs relating to Native Americans.

S. 2872. An act to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

S. 3079. An act to authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs.

S. Con. Res. 159. Concurrent Resolution to corr3ect the enrollment of S. 1843

S. Con. Res. 160. Concurrent Resolution providing for the sine die adjournment of the One Hundred Seventh Congress, Second Session.

The message also announced that the Senate agrees to the amendments of the House to the bills of the Senate of the following titles:

S. 941. An act to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to extend the term of the advisory commission for the recreation area, and for other purposes.

S. 1894. An act to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes.

The message also announced that the Senate disagreed to the amendment of the House to the bill of the Senate of the following title:

S. 1105. An act to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, and for other purposes.

APPOINTMENT OF HON. RICHARD K. ARMEY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS TODAY

The SPEAKER pro tempore laid before the House the following Communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 22, 2002.

I hereby appoint the Honorable Richard K. Armey to act as Speaker pro tempore to sign enrolled bills and joint resolutions on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

APPOINTMENT AS MEMBERS OF BENJAMIN FRANKLIN TERCENTENARY COMMISSION

The SPEAKER pro tempore. Without objection, and pursuant to section 5(a)(2) of the Benjamin Franklin Tercentenary Commission Act (Pub. L. 107–202), the Chair announces the Speaker's appointment of the following Member of the House to the Benjamin Franklin Tercentenary Commission:

Mr. CASTLE of Delaware

and, in addition,

Mrs. Elise DuPont of Rockland, Delaware.

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 20, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of

the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 20, 2002 at 11:35 a.m.:

That the Senate agreed to House amendment S. 1240.

That the Senate agreed to conference report H.R. 3210.

That the Senate passed without amendment H.J. Res. 124.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 20, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 20, 2002 at 1:50 p.m.:

That the Senate passed without amendment H.J. Res. 117.

That the Senate passed without amendment H.R. 38.

That the Senate passed without amendment H.R. 308.

That the Senate passed without amendment H.R. 451.

That the Senate passed without amendment H.R. 706.

That the Senate passed without amendment H.R. 1712.

That the Senate passed without amendment H.R. 1776.

That the Senate passed without amendment H.R. 1814.

That the Senate passed without amendment H.R. 1870.

That the Senate passed without amendment H.R. 1906.

That the Senate passed without amendment H.R. 1925.

That the Senate passed without amendment H.R. 2099.

That the Senate passed without amendment H.R. 2109.

That the Senate passed without amendment H.R. 2115.

That the Senate passed without amendment H.R. 2385.

That the Senate passed without amendment H.R. 2628.

That the Senate passed without amendment H.R. 2818.

That the Senate passed without amendment H.R. 2828.

That the Senate passed without amendment H.R. 2937.

That the Senate passed without amendment H.R. 2990.

That the Senate passed without amendment H.R. 3048.

That the Senate passed without amendment H.R. 3401.

That the Senate passed without amendment H.R. 3449.

That the Senate passed without amendment H.R. 3747.

That the Senate passed without amendment H.R. 3858.

That the Senate passed without amendment H.R. 3909.

That the Senate passed without amendment H.R. 3954.

That the Senate passed without amendment H.R. 4129.

That the Senate passed without amendment H.R. 4638.

That the Senate passed without amendment H.R. 4682.

That the Senate passed without amendment H.R. 4750.

That the Senate passed without amendment H.R. 4874.

That the Senate passed without amendment H.R. 4944.

That the Senate passed without amendment H.R. 4953.

That the Senate passed without amendment H.R. 5099.

That the Senate passed without amendment H.R. 5125.

That the Senate passed without amendment H.R. 5436.

That the Senate passed without amendment H.R. 5738.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 21, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 21, 2002 at 1:42 p.m.

That the Senate agreed to House amendment S. 2017.

That the Senate passed without amendment H.R. 2187.

That the Senate passed without amendment H.R. 3180.

That the Senate passed without amendment H.R. 4692.

That the Senate passed without amendment H.R. 4823.

That the Senate passed without amendment H.R. 4883.

That the Senate passed without amendment H.R. 5472.

That the Senate passed without amendment H. Con. Res. 349.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule 1, Speaker pro tempore DAVIS signed the following enrolled bills and joint resolutions on Wednesday, November 20, 2002:

H.R. 727, to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act;

H.R. 2595, to direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia;

H.R. 3908, to reauthorize the North American Wetlands Conservation Act, and for other purposes;

H.R. 5504, to provide for the improvement of the safety of child restraints in passenger motor vehicles, and for other purposes;

H.J. Res. 124, making further continuing appropriations for the fiscal year 2003, and for other purposes;

S. 1010, to extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina;

S. 1226, to require the display of the POW/MIA flag at the World War II Memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial;

S. 1907, to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon;

S. 1946, to amend the National Trails System Act to designate the Old Spanish Trail as a national historic trail;

S. 2239, to amend the National Housing Act to simplify the downpayment requirement for FHA mortgage insurance for single family homebuyers;

S. 2712, to authorize economic and Democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries;

S. 3044, to authorize the court services and offender supervision agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation and supervised release;

S. 3156, to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila;

S.J. Res. 53, relative to the convening of the first session of the 108th Congress.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 19, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on November 19, 2002 at 3:15 p.m. and said to contain a message from the President whereby he transmits the State of Small Business Annual Report.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

STATE OF SMALL BUSINESS ANNUAL REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Small Business:

To the Congress of the United States:

This report documents the state of small business at the end of the 20th century. Small businesses have always been the backbone of our economy. They perennially account for most innovation and job creation. Small businesses have sustained the economy when it is robust and growing as well as in weaker times when small businesses have put the economy back on the track to long-term growth.

We must work together to give small businesses an environment in which they can thrive. Small businesses are disproportionately affected by Government regulations and paperwork, and I am committed to reducing this burden. We should regulate only where there is a real need, fully justified through rigorous cost-benefit analysis and clear legal authority. And when Government must regulate, it must adopt commonsense approaches. Regulations work best when agencies anticipate and analyze the effects of their proposals on small firms. Rules need to reflect the ability of small businesses to comply.

Another barrier to unleashing the full potential of small business is our tax code. I am committed to reducing taxes for all Americans—especially small businesses. We must eliminate permanently the estate tax, which so often has spelled the death of the business and the jobs of its employees after the death of its founder. Our tax code should encourage investment in small businesses, and particularly in new and growing businesses. Because the innovations that drive tomorrow's economy come from entrepreneurial small businesses today, we must help them enter the marketplace, not impede them before they get there. Above all, small businesses need a tax code that is understandable and stable. Fairness, simplicity, transparency, and accountability should be our goals, and I am committed to this end.

Small business embodies so much of what America is all about. Self-reliance, hard work, innovation, the courage to take risks for future growth: these are values that have served our Nation well since its very beginning. They are values to be passed on from generation to generation. We must ensure that our small businesses continue to thrive and prosper, not just for their own sakes, but for all of us.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 19, 2002.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 19, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on November 19, 2002 at 3:15 p.m. and said to contain a message from the President whereby he transmits the Annual Report of the Railroad Retirement Board.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNUAL REPORT OF UNITED STATES RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Transportation and Infrastructure and the Committee on Ways and Means:

To the Congress of the United States:

I transmit herewith the Annual Report of the Railroad Retirement Board presented for forwarding to you for the fiscal year ended September 30, 2001, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 19, 2002.*

HOMELAND SECURITY ACT OF 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Resolved, That the bill from the House of Representatives (H.R. 5005) entitled ''An Act to establish the Department of Homeland Security, and for other purposes.'', do pass with the following Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Homeland Security 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. Definitions.
Sec. 3. Construction; severability.
Sec. 4. Effective date.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Sec. 101. Executive department; mission.
Sec. 102. Secretary; functions.
Sec. 103. Other officers.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

Sec. 201. Directorate for Information Analysis and Infrastructure Protection.
Sec. 202. Access to information.

Subtitle B—Critical Infrastructure Information

Sec. 211. Short title.
Sec. 212. Definitions.
Sec. 213. Designation of critical infrastructure protection program.
Sec. 214. Protection of voluntarily shared critical infrastructure information.
Sec. 215. No private right of action.

Subtitle C—Information Security

Sec. 221. Procedures for sharing information.
Sec. 222. Privacy Officer.
Sec. 223. Enhancement of non-Federal cybersecurity.
Sec. 224. Net guard.
Sec. 225. Cyber Security Enhancement Act of 2002.

Subtitle D—Office of Science and Technology

Sec. 231. Establishment of office; Director.
Sec. 232. Mission of office; duties.
Sec. 233. Definition of law enforcement technology.
Sec. 234. Abolishment of Office of Science and Technology of National Institute of Justice; transfer of functions.
Sec. 235. National Law Enforcement and Corrections Technology Centers.
Sec. 236. Coordination with other entities within Department of Justice.
Sec. 237. Amendments relating to National Institute of Justice.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

Sec. 301. Under Secretary for Science and Technology.
Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.
Sec. 303. Functions transferred.
Sec. 304. Conduct of certain public health-related activities.
Sec. 305. Federally funded research and development centers.
Sec. 306. Miscellaneous provisions.
Sec. 307. Homeland Security Advanced Research Projects Agency.
Sec. 308. Conduct of research, development, demonstration, testing and evaluation.
Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.
Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.
Sec. 311. Homeland Security Science and Technology Advisory Committee.
Sec. 312. Homeland Security Institute.
Sec. 313. Technology clearinghouse to encourage and support innovative solutions to enhance homeland security.

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

Sec. 401. Under Secretary for Border and Transportation Security.
Sec. 402. Responsibilities.
Sec. 403. Functions transferred.

Subtitle B—United States Customs Service

Sec. 411. Establishment; Commissioner of Customs.

Sec. 412. Retention of customs revenue functions by Secretary of the Treasury.
Sec. 413. Preservation of customs funds.
Sec. 414. Separate budget request for customs.
Sec. 415. Definition.
Sec. 416. GAO report to Congress.
Sec. 417. Allocation of resources by the Secretary.
Sec. 418. Reports to Congress.
Sec. 419. Customs user fees.

Subtitle C—Miscellaneous Provisions

Sec. 421. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 422. Functions of Administrator of General Services.
Sec. 423. Functions of Transportation Security Administration.
Sec. 424. Preservation of Transportation Security Administration as a distinct entity.
Sec. 425. Explosive detection systems.
Sec. 426. Transportation security.
Sec. 427. Coordination of information and information technology.
Sec. 428. Visa issuance.
Sec. 429. Information on visa denials required to be entered into electronic data system.
Sec. 430. Office for Domestic Preparedness.

Subtitle D—Immigration Enforcement Functions

Sec. 441. Transfer of functions to Under Secretary for Border and Transportation Security.
Sec. 442. Establishment of Bureau of Border Security.
Sec. 443. Professional responsibility and quality review.
Sec. 444. Employee discipline.
Sec. 445. Report on improving enforcement functions.
Sec. 446. Sense of Congress regarding construction of fencing near San Diego, California.

Subtitle E—Citizenship and Immigration Services

Sec. 451. Establishment of Bureau of Citizenship and Immigration Services.
Sec. 452. Citizenship and Immigration Services Ombudsman.
Sec. 453. Professional responsibility and quality review.
Sec. 454. Employee discipline.
Sec. 455. Effective date.
Sec. 456. Transition.
Sec. 457. Funding for citizenship and immigration services.
Sec. 458. Backlog elimination.
Sec. 459. Report on improving immigration services.
Sec. 460. Report on responding to fluctuating needs.
Sec. 461. Application of Internet-based technologies.
Sec. 462. Children's affairs.

Subtitle F—General Immigration Provisions

Sec. 471. Abolishment of INS.
Sec. 472. Voluntary separation incentive payments.
Sec. 473. Authority to conduct a demonstration project relating to disciplinary action.
Sec. 474. Sense of Congress.
Sec. 475. Director of Shared Services.
Sec. 476. Separation of funding.
Sec. 477. Reports and implementation plans.
Sec. 478. Immigration functions.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.
Sec. 502. Responsibilities.
Sec. 503. Functions transferred.
Sec. 504. Nuclear incident response.
Sec. 505. Conduct of certain public health-related activities.
Sec. 506. Definition.
Sec. 507. Role of Federal Emergency Management Agency.
Sec. 508. Use of national private sector networks in emergency response.
Sec. 509. Use of commercially available technology, goods, and services.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

Sec. 601. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations.

TITLE VII—MANAGEMENT

Sec. 701. Under Secretary for Management.
Sec. 702. Chief Financial Officer.
Sec. 703. Chief Information Officer.
Sec. 704. Chief Human Capital Officer.
Sec. 705. Establishment of Officer for Civil Rights and Civil Liberties.
Sec. 706. Consolidation and co-location of offices.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

Sec. 801. Office for State and Local Government Coordination.

Subtitle B—Inspector General

Sec. 811. Authority of the Secretary.
Sec. 812. Law enforcement powers of Inspector General agents.

Subtitle C—United States Secret Service

Sec. 821. Functions transferred.

Subtitle D—Acquisitions

Sec. 831. Research and development projects.
Sec. 832. Personal services.
Sec. 833. Special streamlined acquisition authority.
Sec. 834. Unsolicited proposals.
Sec. 835. Prohibition on contracts with corporate expatriates.

Subtitle E—Human Resources Management

Sec. 841. Establishment of Human Resources Management System.
Sec. 842. Labor-management relations.

Subtitle F—Federal Emergency Procurement Flexibility

Sec. 851. Definition.
Sec. 852. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 853. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 854. Increased micro-purchase threshold for certain procurements.
Sec. 855. Application of certain commercial items authorities to certain procurements.
Sec. 856. Use of streamlined procedures.
Sec. 857. Review and report by Comptroller General.
Sec. 858. Identification of new entrants into the Federal marketplace.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

Sec. 861. Short title.
Sec. 862. Administration.
Sec. 863. Litigation management.
Sec. 864. Risk management.
Sec. 865. Definitions.

Subtitle H—Miscellaneous Provisions

Sec. 871. Advisory committees.
Sec. 872. Reorganization.
Sec. 873. Use of appropriated funds.
Sec. 874. Future Year Homeland Security Program.
Sec. 875. Miscellaneous authorities.
Sec. 876. Military activities.
Sec. 877. Regulatory authority and preemption.
Sec. 878. Counternarcotics officer.
Sec. 879. Office of International Affairs.
Sec. 880. Prohibition of the Terrorism Information and Prevention System.
Sec. 881. Review of pay and benefit plans.
Sec. 882. Office for National Capital Region Coordination.
Sec. 883. Requirement to comply with laws protecting equal employment opportunity and providing whistleblower protections.
Sec. 884. Federal Law Enforcement Training Center.
Sec. 885. Joint Interagency Task Force.
Sec. 886. Sense of Congress reaffirming the continued importance and applicability of the Posse Comitatus Act.
Sec. 887. Coordination with the Department of Health and Human Services under the Public Health Service Act.
Sec. 888. Preserving Coast Guard mission performance.
Sec. 889. Homeland security funding analysis in President's budget.
Sec. 890. Air Transportation Safety and System Stabilization Act.

Subtitle I—Information Sharing

Sec. 891. Short title; findings; and sense of Congress.
Sec. 892. Facilitating homeland security information sharing procedures.
Sec. 893. Report.
Sec. 894. Authorization of appropriations.
Sec. 895. Authority to share grand jury information.
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SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) Each of the terms ''American homeland'' and ''homeland'' means the United States.

(2) The term ''appropriate congressional committee'' means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(3) The term ''assets'' includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) The term ''critical infrastructure'' has the meaning given that term in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)).

(5) The term ''Department'' means the Department of Homeland Security.

(6) The term ''emergency response providers'' includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.

(7) The term ''executive agency'' means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(8) The term ''functions'' includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.

(9) The term ''key resources'' means publicly or privately controlled resources essential to the minimal operations of the economy and government.

(10) The term ''local government'' means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation; and

(C) a rural community, unincorporated town or village, or other public entity.

(11) The term ''major disaster'' has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(12) The term ''personnel'' means officers and employees.

(13) The term ''Secretary'' means the Secretary of Homeland Security.

(14) The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

(15) The term ''terrorism'' means any activity that—

(A) involves an act that—

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

(16)(A) The term ''United States'', when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States.

(B) Nothing in this paragraph or any other provision of this Act shall be construed to modify the definition of ''United States'' for the purposes of the Immigration and Nationality Act or any other immigration or nationality law.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that

are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

(F) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland; and

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

(2) RESPONSIBILITY FOR INVESTIGATING AND PROSECUTING TERRORISM.—Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—

(1) IN GENERAL.—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) HEAD OF DEPARTMENT.—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) FUNCTIONS VESTED IN SECRETARY.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) except as otherwise provided by this Act, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department;

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary's responsibilities under this Act or otherwise provided by law; and

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments.

(c) COORDINATION WITH NON-FEDERAL ENTITIES.—With respect to homeland security, the Secretary shall coordinate through the Office of State and Local Coordination (established under section 801) (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public; and

(3) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

(d) MEETINGS OF NATIONAL SECURITY COUNCIL.—The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) ISSUANCE OF REGULATIONS.—The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5, United States Code, except as specifically provided in this Act, in laws granting regulatory authorities that are transferred by this Act, and in laws enacted after the date of enactment of this Act.

(f) SPECIAL ASSISTANT TO THE SECRETARY.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(2) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(3) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(4) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to—

(A) advise the Secretary on private sector products, applications, and solutions as they relate to homeland security challenges; and

(B) advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(5) working with Federal laboratories, Federally funded research and development centers, other Federally funded organizations, academia, and the private sector to develop innovative approaches to address homeland security challenges to produce and deploy the best available technologies for homeland security missions;

(6) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(7) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(g) STANDARDS POLICY.—All standards activities of the Department shall be conducted in accordance with section 12(d) of the National Technology Transfer Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget Circular A–119.

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) A Director of the Bureau of Citizenship and Immigration Services.

(7) An Under Secretary for Management.

(8) Not more than 12 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the department.

(b) INSPECTOR GENERAL.—There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code, and who shall report directly to the Secretary. In addition to such duties as may be provided in this Act and as assigned to the Commandant by the Secretary, the duties of the Commandant shall include those required by section 2 of title 14, United States Code.

(d) OTHER OFFICERS.—To assist the Secretary in the performance of the Secretary's functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Information Officer.

(3) A Chief Human Capital Officer.

(4) A Chief Financial Officer.

(5) An Officer for Civil Rights and Civil Liberties.

(e) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official's office or prescribed by the Secretary.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) UNDER SECRETARY OF HOMELAND SECURITY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—

(1) IN GENERAL.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Under Secretary shall assist the Secretary in discharging the responsibilities assigned by the Secretary.

(b) ASSISTANT SECRETARY FOR INFORMATION ANALYSIS; ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—

(1) ASSISTANT SECRETARY FOR INFORMATION ANALYSIS.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) RESPONSIBILITIES.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) DISCHARGE OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) RESPONSIBILITIES OF UNDER SECRETARY.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of terrorist threats to the homeland;

(B) detect and identify threats of terrorism against the United States; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.

(6) To recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public advisories related to threats to homeland security; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information under this Act is shared, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) STAFF.—

(1) IN GENERAL.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience to assist the Directorate in discharging responsibilities under this section.

(2) PRIVATE SECTOR ANALYSTS.—Analysts under this subsection may include analysts from the private sector.

(3) SECURITY CLEARANCES.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) DETAIL OF PERSONNEL.—

(1) IN GENERAL.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) COVERED AGENCIES.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) COOPERATIVE AGREEMENTS.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) BASIS.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) FUNCTIONS TRANSFERRED.—In accordance with title XV, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(5) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) INCLUSION OF CERTAIN ELEMENTS OF THE DEPARTMENT AS ELEMENTS OF THE INTELLIGENCE COMMUNITY.—Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(a)) is amended—

(1) by striking ''and'' at the end of subparagraph (I);

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

''(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; and''.

SEC. 202. ACCESS TO INFORMATION.

(a) IN GENERAL.—

(1) THREAT AND VULNERABILITY INFORMATION.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary, and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) OTHER INFORMATION.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) MANNER OF ACCESS.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against

the United States and to other areas of responsibility assigned by the Secretary;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) TREATMENT UNDER CERTAIN LAWS.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107–56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) ACCESS TO INTELLIGENCE AND OTHER INFORMATION.—

(1) ACCESS BY ELEMENTS OF FEDERAL GOVERNMENT.—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or other any element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) SHARING OF INFORMATION.—The Secretary, in consultation with the Director of Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

Subtitle B—Critical Infrastructure Information

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Critical Infrastructure Information Act of 2002''.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term ''agency'' has the meaning given it in section 551 of title 5, United States Code.

(2) COVERED FEDERAL AGENCY.—The term ''covered Federal agency'' means the Department of Homeland Security.

(3) CRITICAL INFRASTRUCTURE INFORMATION.—The term ''critical infrastructure information'' means information not customarily in the public domain and related to the security of critical infrastructure or protected systems—

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

(4) CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.—The term ''critical infrastructure protection program'' means any component or bureau of a covered Federal agency that has been designated by the President or any agency head to receive critical infrastructure information.

(5) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term ''Information Sharing and Analysis Organization'' means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

(A) gathering and analyzing critical infrastructure information in order to better understand security problems and interdependencies related to critical infrastructure and protected systems, so as to ensure the availability, integrity, and reliability thereof;

(B) communicating or disclosing critical infrastructure information to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure or protected systems; and

(C) voluntarily disseminating critical infrastructure information to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

(6) PROTECTED SYSTEM.—The term ''protected system''—

(A) means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of critical infrastructure; and

(B) includes any physical or computer-based system, including a computer, computer system, computer or communications network, or any component hardware or element thereof, software program, processing instructions, or information or data in transmission or storage therein, irrespective of the medium of transmission or storage.

(7) VOLUNTARY.—

(A) IN GENERAL.—The term ''voluntary'', in the case of any submittal of critical infrastructure information to a covered Federal agency, means the submittal thereof in the absence of such agency's exercise of legal authority to compel access to or submission of such information and may be accomplished by a single entity or an Information Sharing and Analysis Organization on behalf of itself or its members.

(B) EXCLUSIONS.—The term ''voluntary''—

(i) in the case of any action brought under the securities laws as is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))—

(I) does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(I)); and

(II) with respect to the submittal of critical infrastructure information, does not include any disclosure or writing that when made accompanied the solicitation of an offer or a sale of securities; and

(ii) does not include information or statements submitted or relied upon as a basis for making licensing or permitting determinations, or during regulatory proceedings.

SEC. 213. DESIGNATION OF CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.

A critical infrastructure protection program may be designated as such by one of the following:

(1) The President.

(2) The Secretary of Homeland Security.

SEC. 214. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.

(a) PROTECTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this subtitle, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) when disclosure of the information would be—

(I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the General Accounting Office.

(E) shall not, if provided to a State or local government or government agency—

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) EXPRESS STATEMENT.—For purposes of paragraph (1), the term ''express statement'', with respect to information or records, means—

(A) in the case of written information or records, a written marking on the information or records substantially similar to the following: ''This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002.''; or

(B) in the case of oral information, a similar written statement submitted within a reasonable period following the oral communication.

(b) LIMITATION.—No communication of critical infrastructure information to a covered Federal agency made pursuant to this subtitle shall be considered to be an action subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(c) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or otherwise affect the ability of a State, local, or Federal Government entity, agency, or authority, or any third party, under applicable law, to obtain critical infrastructure information in a manner not covered by subsection (a), including any information lawfully and properly disclosed generally or broadly to the public

and to use such information in any manner permitted by law.

(d) TREATMENT OF VOLUNTARY SUBMITTAL OF INFORMATION.—The voluntary submittal to the Government of information or records that are protected from disclosure by this subtitle shall not be construed to constitute compliance with any requirement to submit such information to a Federal agency under any other provision of law.

(e) PROCEDURES.—

(1) IN GENERAL.—The Secretary of the Department of Homeland Security shall, in consultation with appropriate representatives of the National Security Council and the Office of Science and Technology Policy, establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government. The procedures shall be established not later than 90 days after the date of the enactment of this subtitle.

(2) ELEMENTS.—The procedures established under paragraph (1) shall include mechanisms regarding—

(A) the acknowledgement of receipt by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government;

(B) the maintenance of the identification of such information as voluntarily submitted to the Government for purposes of and subject to the provisions of this subtitle;

(C) the care and storage of such information; and

(D) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting person or entity, and is otherwise not appropriately in the public domain.

(f) PENALTIES.—Whoever, being an officer or employee of the United States or of any department or agency thereof, knowingly publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law, any critical infrastructure information protected from disclosure by this subtitle coming to him in the course of this employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more than 1 year, or both, and shall be removed from office or employment.

(g) AUTHORITY TO ISSUE WARNINGS.—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted critical infrastructure information that forms the basis for the warning; or

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(h) AUTHORITY TO DELEGATE.—The President may delegate authority to a critical infrastructure protection program, designated under section 213, to enter into a voluntary agreement to promote critical infrastructure security, including with any Information Sharing and Analysis Organization, or a plan of action as otherwise defined in section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

SEC. 215. NO PRIVATE RIGHT OF ACTION.

Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.

Subtitle C—Information Security

SEC. 221. PROCEDURES FOR SHARING INFORMATION.

The Secretary shall establish procedures on the use of information shared under this title that—

(1) limit the redissemination of such information to ensure that it is not used for an unauthorized purpose;

(2) ensure the security and confidentiality of such information;

(3) protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(4) provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

SEC. 222. PRIVACY OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for privacy policy, including—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(2) assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personal information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department or that of the Department on the privacy of personal information, including the type of personal information collected and the number of people affected; and

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.

SEC. 223. ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

SEC. 224. NET GUARD.

The Under Secretary for Information Analysis and Infrastructure Protection may establish a national technology guard, to be known as ''NET Guard'', comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

SEC. 225. CYBER SECURITY ENHANCEMENT ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the ''Cyber Security Enhancement Act of 2002''.

(b) AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER CRIMES.—

(1) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the following factors and the extent to which the guidelines may or may not account for them—

(i) the potential and actual loss resulting from the offense;

(ii) the level of sophistication and planning involved in the offense;

(iii) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(iv) whether the defendant acted with malicious intent to cause harm in committing the offense;

(v) the extent to which the offense violated the privacy rights of individuals harmed;

(vi) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(vii) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(viii) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) STUDY AND REPORT ON COMPUTER CRIMES.—Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this section and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

(d) EMERGENCY DISCLOSURE EXCEPTION.—

(1) IN GENERAL.—Section 2702(b) of title 18, United States Code, is amended—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in paragraph (6)(A), by inserting ''or'' at the end;

(C) by striking paragraph (6)(C); and

(D) by adding at the end the following:

''(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.''.

(2) REPORTING OF DISCLOSURES.—A government entity that receives a disclosure under section 2702(b) of title 18, United States Code, shall file, not later than 90 days after such disclosure, a report to the Attorney General stating the paragraph of that section under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the

number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress 1 year after the date of enactment of this Act.

(e) GOOD FAITH EXCEPTION.—Section 2520(d)(3) of title 18, United States Code, is amended by inserting ''or 2511(2)(i)'' after ''2511(3)''.

(f) INTERNET ADVERTISING OF ILLEGAL DEVICES.—Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''or disseminates by electronic means'' after ''or other publication''; and

(2) by inserting ''knowing the content of the advertisement and'' before ''knowing or having reason to know''.

(g) STRENGTHENING PENALTIES.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting ''except as provided in paragraph (5),'' before ''a fine under this title'';

(3) in paragraph (4)(C), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

''(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.''.

(h) PROVIDER ASSISTANCE.—

(1) SECTION 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting '', statutory authorization'' after ''subpoena''.

(2) SECTION 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting '', statutory authorization,'' after ''court order'' the last place it appears.

(i) EMERGENCIES.—Section 3125(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(C) an immediate threat to a national security interest; or

''(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;''.

(j) PROTECTING PRIVACY.—

(1) SECTION 2511.—Section 2511(4) of title 18, United States Code, is amended—

(A) by striking paragraph (b); and

(B) by redesignating paragraph (c) as paragraph (b).

(2) SECTION 2701.—Section 2701(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting '', or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State'' after ''commercial gain'';

(B) in paragraph (1)(A), by striking ''one year'' and inserting ''5 years'';

(C) in paragraph (1)(B), by striking ''two years'' and inserting ''10 years''; and

(D) by striking paragraph (2) and inserting the following:

''(2) in any other case—

''(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

''(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.''.

Subtitle D—Office of Science and Technology

SEC. 231. ESTABLISHMENT OF OFFICE; DIRECTOR.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this title referred to as the ''Office'').

(2) AUTHORITY.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be established within the National Institute of Justice.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. 232. MISSION OF OFFICE; DUTIES.

(a) MISSION.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) DUTIES.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, evaluation, and cost-benefit analyses in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. 233. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

For the purposes of this title, the term ''law enforcement technology'' includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. 234. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

(a) AUTHORITY TO TRANSFER FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(b) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is established in the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

(c) REPORT ON IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this title. The report shall—

(1) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office; and

(2) include such other information and recommendations as the Attorney General considers appropriate.

SEC. 235. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) IN GENERAL.—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as ''Centers'') and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) PURPOSE OF CENTERS.—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) ANNUAL MEETING.—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. 236. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting ''coordinate and'' before ''provide''.

SEC. 237. AMENDMENTS RELATING TO NATIONAL INSTITUTE OF JUSTICE.

Section 202(c) of the Omnibus Crime Control and Safety Streets Act of 1968 (42 U.S.C. 3722(c)) is amended—

(1) in paragraph (3) by inserting '', including cost effectiveness where practical,'' before ''of projects''; and

(2) by striking ''and'' after the semicolon at the end of paragraph (8), striking the period at the end of paragraph (9) and inserting ''; and'', and by adding at the end the following:

''(10) research and development of tools and technologies relating to prevention, detection, investigation, and prosecution of crime; and

''(11) support research, development, testing, training, and evaluation of tools and technology for Federal, State, and local law enforcement agencies.''.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the responsibility for—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) developing, in consultation with other appropriate executive agencies, a national policy and strategic plan for, identifying priorities, goals, objectives and policies for, and coordinating the Federal Government's civilian efforts to identify and develop countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including the development of comprehensive, research-based definable goals for such efforts and development of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts;

(3) supporting the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

(A) preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to federal, state, local government, and private sector entities;

(7) entering into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture and the Attorney General as provided in section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401), as amended by section 1709(b);

(9) collaborating with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as ''select agents'' in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a);

(10) supporting United States leadership in science and technology;

(11) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;

(12) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;

(13) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs; and

(14) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities, goals, objectives, and policies and develop a coordinated strategy for such activities in collaboration with the Secretary of Homeland Security to ensure consistency with the national policy and strategic plan developed pursuant to section 302(2).

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

(c) ADMINISTRATION OF COUNTERMEASURES AGAINST SMALLPOX.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding the following:

''(p) ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH PROFESSIONALS.—

''(1) IN GENERAL.—For purposes of this section, and subject to other provisions of this subsection, a covered person shall be deemed to be an employee of the Public Health Service with respect to liability arising out of administration of a covered countermeasure against smallpox to an individual during the effective period of a declaration by the Secretary under paragraph (2)(A).

''(2) DECLARATION BY SECRETARY CONCERNING COUNTERMEASURE AGAINST SMALLPOX.—

''(A) AUTHORITY TO ISSUE DECLARATION.—

''(i) IN GENERAL.—The Secretary may issue a declaration, pursuant to this paragraph, concluding that an actual or potential bioterrorist incident or other actual or potential public health emergency makes advisable the administration of a covered countermeasure to a category or categories of individuals.

''(ii) COVERED COUNTERMEASURE.—The Secretary shall specify in such declaration the substance or substances that shall be considered covered countermeasures (as defined in paragraph (8)(A)) for purposes of administration to individuals during the effective period of the declaration.

''(iii) EFFECTIVE PERIOD.—The Secretary shall specify in such declaration the beginning and ending dates of the effective period of the declaration, and may subsequently amend such declaration to shorten or extend such effective period, provided that the new closing date is after the date when the declaration is amended.

''(iv) PUBLICATION.—The Secretary shall promptly publish each such declaration and amendment in the Federal Register.

''(B) LIABILITY OF UNITED STATES ONLY FOR ADMINISTRATIONS WITHIN SCOPE OF DECLARATION.—Except as provided in paragraph (5)(B)(ii), the United States shall be liable under this subsection with respect to a claim arising out of the administration of a covered countermeasure to an individual only if—

''(i) the countermeasure was administered by a qualified person, for a purpose stated in paragraph (7)(A)(i), and during the effective period of a declaration by the Secretary under subparagraph (A) with respect to such countermeasure; and

''(ii)(I) the individual was within a category of individuals covered by the declaration; or

''(II) the qualified person administering the countermeasure had reasonable grounds to believe that such individual was within such category.

''(C) PRESUMPTION OF ADMINISTRATION WITHIN SCOPE OF DECLARATION IN CASE OF ACCIDENTAL VACCINIA INOCULATION.—

''(i) IN GENERAL.—If vaccinia vaccine is a covered countermeasure specified in a declaration under subparagraph (A), and an individual to whom the vaccinia vaccine is not administered contracts vaccinia, then, under the circumstances specified in clause (ii), the individual—

''(I) shall be rebuttably presumed to have contracted vaccinia from an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B); and

''(II) shall (unless such presumption is rebutted) be deemed for purposes of this subsection to be an individual to whom a covered countermeasure was administered by a qualified person in accordance with the terms of such declaration and as described by subparagraph (B).

''(ii) CIRCUMSTANCES IN WHICH PRESUMPTION APPLIES.—The presumption and deeming stated in clause (i) shall apply if—

''(I) the individual contracts vaccinia during the effective period of a declaration under subparagraph (A) or by the date 30 days after the close of such period; or

''(II) the individual resides or has resided with an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B) and contracts vaccinia after such date.

''(3) EXCLUSIVITY OF REMEDY.—The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this subsection encompasses.

''(4) CERTIFICATION OF ACTION BY ATTORNEY GENERAL.—Subsection (c) applies to actions under this subsection, subject to the following provisions:

''(A) NATURE OF CERTIFICATION.—The certification by the Attorney General that is the basis for deeming an action or proceeding to be against the United States, and for removing an action or proceeding from a State court, is a certification that the action or proceeding is against a covered person and is based upon a claim alleging personal injury or death arising out of the administration of a covered countermeasure.

''(B) CERTIFICATION OF ATTORNEY GENERAL CONCLUSIVE.—The certification of the Attorney General of the facts specified in subparagraph (A) shall conclusively establish such facts for purposes of jurisdiction pursuant to this subsection.

''(5) DEFENDANT TO COOPERATE WITH UNITED STATES.—

''(A) IN GENERAL.—A covered person shall cooperate with the United States in the processing and defense of a claim or action under this subsection based upon alleged acts or omissions of such person.

''(B) CONSEQUENCES OF FAILURE TO COOPERATE.—Upon the motion of the United States or any other party and upon finding that such person has failed to so cooperate—

''(i) the court shall substitute such person as the party defendant in place of the United States and, upon motion, shall remand any such suit to the court in which it was instituted if it appears that the court lacks subject matter jurisdiction;

''(ii) the United States shall not be liable based on the acts or omissions of such person; and

''(iii) the Attorney General shall not be obligated to defend such action.

''(6) RECOURSE AGAINST COVERED PERSON IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

''(A) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any covered person to carry out any obligation or responsibility assumed by such person under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person.

''(B) VENUE.—The United States may maintain an action under this paragraph against such person in the district court of the United States in which such person resides or has its principal place of business.

''(7) DEFINITIONS.—As used in this subsection, terms have the following meanings:

''(A) COVERED COUNTERMEASURE.—The term 'covered countermeasure', or 'covered countermeasure against smallpox', means a substance that is—

''(i)(I) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

''(II) vaccinia immune globulin used to control or treat the adverse effects of vaccinia inoculation; and

''(ii) specified in a declaration under paragraph (2).

''(B) COVERED PERSON.—The term 'covered person', when used with respect to the administration of a covered countermeasure, includes any person who is—

''(i) a manufacturer or distributor of such countermeasure;

''(ii) a health care entity under whose auspices such countermeasure was administered;

''(iii) a qualified person who administered such countermeasure; or

''(iv) an official, agent, or employee of a person described in clause (i), (ii), or (iii).

''(C) QUALIFIED PERSON.—The term 'qualified person', when used with respect to the administration of a covered countermeasure, means a licensed health professional or other individual who is authorized to administer such countermeasure under the law of the State in which the countermeasure was administered.''.

SEC. 305. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues, or to carry out other responsibilities under this Act, including coordinating and integrating both the extramural and intramural programs described in section 308.

SEC. 306. MISCELLANEOUS PROVISIONS.

(a) CLASSIFICATION.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(b) CONSTRUCTION.—Nothing in this title shall be construed to preclude any Under Secretary of the Department from carrying out research, development, demonstration, or deployment activities, as long as such activities are coordinated through the Under Secretary for Science and Technology.

(c) REGULATIONS.—The Secretary, acting through the Under Secretary for Science and Technology, may issue necessary regulations with respect to research, development, demonstration, testing, and evaluation activities of the Department, including the conducting, funding, and reviewing of such activities.

(d) NOTIFICATION OF PRESIDENTIAL LIFE SCIENCES DESIGNATIONS.—Not later than 60 days before effecting any transfer of Department of Energy life sciences activities pursuant to section 303(1)(D) of this Act, the President shall notify the appropriate congressional committees of the proposed transfer and shall include the reasons for the transfer and a description of the effect of the transfer on the activities of the Department of Energy.

SEC. 307. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term ''Fund'' means the Acceleration Fund for Research and Development of Homeland Security Technologies established in subsection (c).

(2) HOMELAND SECURITY RESEARCH.—The term ''homeland security research'' means research relevant to the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term ''HSARPA'' means the Homeland Security Advanced Research Projects Agency established in subsection (b).

(4) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary for Science and Technology.

(b) HSARPA.—

(1) ESTABLISHMENT.—There is established the Homeland Security Advanced Research Projects Agency.

(2) DIRECTOR.—HSARPA shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

(3) RESPONSIBILITIES.—The Director shall administer the Fund to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses, federally funded research and development centers, and universities. The Director shall administer the Fund to—

(A) support basic and applied homeland security research to promote revolutionary changes in technologies that would promote homeland security;

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies; and

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities.

(4) TARGETED COMPETITIONS.—The Director may solicit proposals to address specific vulnerabilities identified by the Director.

(5) COORDINATION.—The Director shall ensure that the activities of HSARPA are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

(6) PERSONNEL.—In hiring personnel for HSARPA, the Secretary shall have the hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261). The term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(7) DEMONSTRATIONS.—The Director, periodically, shall hold homeland security technology demonstrations to improve contact among technology developers, vendors and acquisition personnel.

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies, which shall be administered by the Director of HSARPA.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 to the Fund for fiscal year 2003 and such sums as may be necessary thereafter.

(3) COAST GUARD.—Of the funds authorized to be appropriated under paragraph (2), not less than 10 percent of such funds for each fiscal year through fiscal year 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 capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways and coastal security mission.

SEC. 308. CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING AND EVALUATION.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall carry out the responsibilities under section 302(4) through both extramural and intramural programs.

(b) EXTRAMURAL PROGRAMS.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate;

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 302(14); and

(C) distribute funds through grants, cooperative agreements, and contracts.

(2) UNIVERSITY-BASED CENTERS FOR HOMELAND SECURITY.—

(A) ESTABLISHMENT.—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 purpose of this center or centers shall be to establish a coordinated, university-based system to enhance the Nation's homeland security.

(B) CRITERIA FOR SELECTION.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider the following criteria:

(i) Demonstrated expertise in the training of first responders.

(ii) Demonstrated expertise in responding to incidents involving weapons of mass destruction and biological warfare.

(iii) Demonstrated expertise in emergency medical services.

(iv) Demonstrated expertise in chemical, biological, radiological, and nuclear countermeasures.

(v) Strong affiliations with animal and plant diagnostic laboratories.

(vi) Demonstrated expertise in food safety.

(vii) Affiliation with Department of Agriculture laboratories or training centers.

(viii) Demonstrated expertise in water and wastewater operations.

(ix) Demonstrated expertise in port and waterway security.

(x) Demonstrated expertise in multi-modal transportation.

(xi) Nationally recognized programs in information security.

(xii) Nationally recognized programs in engineering.

(xiii) Demonstrated expertise in educational outreach and technical assistance.

(xiv) Demonstrated expertise in border transportation and security.

(xv) Demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.

(C) DISCRETION OF SECRETARY.—The Secretary shall have the discretion to establish such centers and to consider additional criteria as necessary to meet the evolving needs of homeland security and shall report to Congress concerning the implementation of this paragraph as necessary.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

(c) INTRAMURAL PROGRAMS.—

(1) CONSULTATION.—In carrying out the duties under section 302, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of the Federal Government, whether operated by a contractor or the Government.

(2) LABORATORIES.—The Secretary, acting through the Under Secretary for Science and Technology, may establish a headquarters laboratory for the Department at any laboratory or site and may establish additional laboratory units at other laboratories or sites.

(3) CRITERIA FOR HEADQUARTERS LABORATORY.—If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

(A) Establish criteria for the selection of the headquarters laboratory in consultation with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

(C) Evaluate all appropriate laboratories or sites against the criteria.

(D) Select a laboratory or site on the basis of the criteria.

(E) Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

(4) LIMITATION ON OPERATION OF LABORATORIES.—No laboratory shall begin operating as the headquarters laboratory of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) AUTHORITY TO UTILIZE NATIONAL LABORATORIES AND SITES.—

(1) IN GENERAL.—In carrying out the missions of the Department, the Secretary may utilize the Department of Energy national laboratories and sites through any 1 or more of the following methods, as the Secretary considers appropriate:

(A) A joint sponsorship arrangement referred to in subsection (b).

(B) A direct contract between the Department and the applicable Department of Energy laboratory or site, subject to subsection (c).

(C) Any ''work for others'' basis made available by that laboratory or site.

(D) Any other method provided by law.

(2) ACCEPTANCE AND PERFORMANCE BY LABS AND SITES.—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept and perform work for the Secretary, consistent with resources provided, and perform such work on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

(b) JOINT SPONSORSHIP ARRANGEMENTS.—

(1) LABORATORIES.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(2) SITES.—The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(3) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement referred to in paragraph (1) or (2).

(4) LEAD AGENT.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship arrangement under this subsection between the Department and a Department of Energy national laboratory or site.

(5) FEDERAL ACQUISITION REGULATION.—Any work performed by a Department of Energy national laboratory or site under a joint sponsorship arrangement under this subsection shall comply with the policy on the use of federally funded research and development centers under the Federal Acquisition Regulations.

(6) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under a joint sponsorship arrangement under this subsection under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of this subsection.

(c) SEPARATE CONTRACTING.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through direct contracts with the operator of a national laboratory or site of the Department of Energy, the Secretary of Homeland Security and the Secretary of Energy shall ensure that direct contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the direct contracts of the Department of Energy with such operator.

(d) AUTHORITY WITH RESPECT TO COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS AND LICENSING AGREEMENTS.—In connection with any utilization of the Department of Energy national laboratories and sites under this section, the Secretary may permit the director of any such national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of that Act (15 U.S.C. 3710, 3710a).

(e) REIMBURSEMENT OF COSTS.—In the case of an activity carried out by the operator of a Department of Energy national laboratory or site in connection with any utilization of such laboratory or site under this section, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

(f) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy unless such activities support the missions of the Department of Homeland Security.

(g) OFFICE FOR NATIONAL LABORATORIES.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites under this section in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(h) DEPARTMENT OF ENERGY COORDINATION ON HOMELAND SECURITY RELATED RESEARCH.—The Secretary of Energy shall ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort and maximize the effective application of Federal budget resources.

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—In accordance with title XV, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) DIRECTION OF ACTIVITIES.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) NOTIFICATION.—

(1) IN GENERAL.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) LIMITATION.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 1501.

SEC. 311. HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established within the Department a Homeland Security Science and Technology Advisory Committee (in this section referred to as the ''Advisory Committee''). The Advisory Committee shall make recommendations with respect to the activities of the Under Secretary for Science and Technology, including identifying research areas of potential importance to the security of the Nation.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 20 members appointed by the Under Secretary for Science and Technology, which shall include emergency first-responders or representatives of organizations or associations of emergency first-responders. The Advisory Committee shall also include representatives of citizen groups, including economically disadvantaged communities. The individuals appointed as members of the Advisory Committee—

(A) shall be eminent in fields such as emergency response, research, engineering, new product development, business, and management consulting;

(B) shall be selected solely on the basis of established records of distinguished service;

(C) shall not be employees of the Federal Government; and

(D) shall be so selected as to provide representation of a cross-section of the research, development, demonstration, and deployment activities supported by the Under Secretary for Science and Technology.

(2) NATIONAL RESEARCH COUNCIL.—The Under Secretary for Science and Technology may enter into an arrangement for the National Research Council to select members of the Advisory Committee, but only if the panel used by the National Research Council reflects the representation described in paragraph (1).

(c) TERMS OF OFFICE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term of office of each member of the Advisory Committee shall be 3 years.

(2) ORIGINAL APPOINTMENTS.—The original members of the Advisory Committee shall be appointed to three classes of three members each. One class shall have a term of 1 year, 1 a term of 2 years, and the other a term of 3 years.

(3) VACANCIES.—A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(d) ELIGIBILITY.—A person who has completed two consecutive full terms of service on the Advisory Committee shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

(e) MEETINGS.—The Advisory Committee shall meet at least quarterly at the call of the Chair or whenever one-third of the members so request in writing. Each member shall be given appropriate notice of the call of each meeting, whenever possible not less than 15 days before the meeting.

(f) QUORUM.—A majority of the members of the Advisory Committee not having a conflict of interest in the matter being considered by the Advisory Committee shall constitute a quorum.

(g) CONFLICT OF INTEREST RULES.—The Advisory Committee shall establish rules for determining when 1 of its members has a conflict of interest in a matter being considered by the Advisory Committee.

(h) REPORTS.—

(1) ANNUAL REPORT.—The Advisory Committee shall render an annual report to the Under Secretary for Science and Technology for transmittal to Congress on or before January 31 of each year. Such report shall describe the activities and recommendations of the Advisory Committee during the previous year.

(2) ADDITIONAL REPORTS.—The Advisory Committee may render to the Under Secretary for transmittal to Congress such additional reports on specific policy matters as it considers appropriate.

(i) FACA EXEMPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

(j) TERMINATION.—The Department of Homeland Security Science and Technology Advisory Committee shall terminate 3 years after the effective date of this Act.

SEC. 312. HOMELAND SECURITY INSTITUTE.

(a) ESTABLISHMENT.—The Secretary shall establish a federally funded research and development center to be known as the ''Homeland Security Institute'' (in this section referred to as the ''Institute'').

(b) ADMINISTRATION.—The Institute shall be administered as a separate entity by the Secretary.

(c) DUTIES.—The duties of the Institute shall be determined by the Secretary, and may include the following:

(1) Systems analysis, risk analysis, and simulation and modeling to determine the vulnerabilities of the Nation's critical infrastructures and the effectiveness of the systems deployed to reduce those vulnerabilities.

(2) Economic and policy analysis to assess the distributed costs and benefits of alternative approaches to enhancing security.

(3) Evaluation of the effectiveness of measures deployed to enhance the security of institutions, facilities, and infrastructure that may be terrorist targets.

(4) Identification of instances when common standards and protocols could improve the interoperability and effective utilization of tools developed for field operators and first responders.

(5) Assistance for Federal agencies and departments in establishing testbeds to evaluate the effectiveness of technologies under development and to assess the appropriateness of such technologies for deployment.

(6) Design of metrics and use of those metrics to evaluate the effectiveness of homeland security programs throughout the Federal Government, including all national laboratories.

(7) Design of and support for the conduct of homeland security-related exercises and simulations.

(8) Creation of strategic technology development plans to reduce vulnerabilities in the Nation's critical infrastructure and key resources.

(d) CONSULTATION ON INSTITUTE ACTIVITIES.—In carrying out the duties described in subsection (c), the Institute shall consult widely with representatives from private industry, institutions of higher education, nonprofit institutions, other Government agencies, and federally funded research and development centers.

(e) USE OF CENTERS.—The Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

(f) ANNUAL REPORTS.—The Institute shall transmit to the Secretary and Congress an annual report on the activities of the Institute under this section.

(g) TERMINATION.—The Homeland Security Institute shall terminate 3 years after the effective date of this Act.

SEC. 313. TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish and promote a program to encourage technological innovation in facilitating the mission of the Department (as described in section 101).

(b) ELEMENTS OF PROGRAM.—The program described in subsection (a) shall include the following components:

(1) The establishment of a centralized Federal clearinghouse for information relating to technologies that would further the mission of the Department for dissemination, as appropriate, to Federal, State, and local government and private sector entities for additional review, purchase, or use.

(2) The issuance of announcements seeking unique and innovative technologies to advance the mission of the Department.

(3) The establishment of a technical assistance team to assist in screening, as appropriate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to assess the feasibility, scientific and technical merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

(c) MISCELLANEOUS PROVISIONS.—

(1) IN GENERAL.—Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.

(2) CERTAIN PROPOSALS.—The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

(3) COORDINATION.—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 441 takes effect.

(4) Establishing and administering rules, in accordance with section 428, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

(5) Establishing national immigration enforcement policies and priorities.

(6) Except as provided in subtitle C, administering the customs laws of the United States.

(7) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 421.

(8) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

SEC. 403. FUNCTIONS TRANSFERRED.

In accordance with title XV (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto;

(4) the Federal Law Enforcement Training Center of the Department of the Treasury; and

(5) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

Subtitle B—United States Customs Service

SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.

(a) ESTABLISHMENT.—There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

(b) COMMISSIONER OF CUSTOMS.—

(1) IN GENERAL.—There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by striking

''Commissioner of Customs, Department of the Treasury''

and inserting

''Commissioner of Customs, Department of Homeland Security.''.

(3) CONTINUATION IN OFFICE.—The individual serving as the Commissioner of Customs on the day before the effective date of this Act may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).

SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.

(a) RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.—

(1) RETENTION OF AUTHORITY.—Notwithstanding section 403(a)(1), authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) STATUTES.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) MAINTENANCE OF CUSTOMS REVENUE FUNCTIONS.—

(1) MAINTENANCE OF FUNCTIONS.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 411) on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) FUNCTIONS.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) NEW PERSONNEL.—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to work with personnel of the Department in performing customs revenue functions.

SEC. 413. 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 may be transferred for use by any other agency or office in the Department.

SEC. 414. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request for the United States Customs Service.

SEC. 415. DEFINITION.

In this subtitle, the term ''customs revenue function'' means the following:

(1) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing 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.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 416. GAO REPORT TO CONGRESS.

Not later than 3 months after the effective date of this Act, the Comptroller General of the

United States shall submit to Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

SEC. 417. ALLOCATION OF RESOURCES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary shall ensure that adequate staffing is provided to assure that levels of customs revenue services provided on the day before the effective date of this Act shall continue to be provided.

(b) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would—

(1) result in any significant reduction in customs revenue services, including hours of operation, provided at any office within the Department or any port of entry;

(2) eliminate or relocate any office of the Department which provides customs revenue services; or

(3) eliminate any port of entry.

(c) DEFINITION.—In this section, the term ''customs revenue services'' means those customs revenue functions described in paragraphs (1) through (6) and paragraph (8) of section 415.

SEC. 418. REPORTS TO CONGRESS.

(a) CONTINUING REPORTS.—The United States Customs Service shall, on and after the effective date of this Act, continue to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate any report required, on the day before such the effective date of this Act, to be so submitted under any provision of law.

(b) REPORT ON CONFORMING AMENDMENTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under section 412(a)(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.

SEC. 419. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).'';

(2) in paragraph (4), by striking ''(other than the excess fees determined by the Secretary under paragraph (5))''; and

(3) 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)(9)(A), $350,000,000.

''(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 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 authorized to remain 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 Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.''.

(b) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107–210) is amended by striking paragraph (2).

Subtitle C—Miscellaneous Provisions

SEC. 421. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) TRANSFER OF AGRICULTURAL IMPORT AND ENTRY INSPECTION FUNCTIONS.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) COVERED ANIMAL AND PLANT PROTECTION LAWS.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading ''Bureau of Animal Industry'' in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) Section 1 of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107–171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) EXCLUSION OF QUARANTINE ACTIVITIES.—For purposes of this section, the term ''functions'' does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (a) under a law specified in subsection (b).

(3) EFFECTIVE ADMINISTRATION.—The Secretary, 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 pursuant to subsection (a).

(e) TRANSFER AGREEMENT.—

(1) AGREEMENT REQUIRED; REVISION.—Before the end of the transition period, as defined in section 1501, the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) REQUIRED TERMS.—The agreement required by this subsection shall specifically address the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Secretary to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(3) COOPERATION AND RECIPROCITY.—The Secretary of Agriculture and the Secretary may include as part of the agreement the following:

(A) Authority for the Secretary to perform functions delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(B) Authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Out of funds collected by fees authorized 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 transfer, from time to time in accordance with the agreement under subsection (e), to the Secretary funds for activities carried out by the Secretary for which such fees were collected.

(2) LIMITATION.—The proportion of fees collected pursuant to such sections that are transferred to the Secretary under this subsection may not exceed the proportion of the costs incurred by the Secretary to all costs incurred to carry out activities funded by such fees.

(g) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period defined under section 1501, the Secretary of Agriculture shall transfer to the Secretary not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) PROTECTION OF INSPECTION ANIMALS.—Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting ''or the Department of Homeland Security'' after ''Department of Agriculture''; and

(B) by inserting ''or the Secretary of Homeland Security'' after ''Secretary of Agriculture'';

(2) by striking ''Secretary'' each place it appears (other than in sections 501(a) and 501(e)) and inserting ''Secretary concerned''; and

(3) by adding at the end of section 501 the following new subsection:

''(e) SECRETARY CONCERNED DEFINED.—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.''.

SEC. 422. FUNCTIONS OF ADMINISTRATOR OF GENERAL SERVICES.

(a) OPERATION, MAINTENANCE, AND PROTECTION OF FEDERAL BUILDINGS AND GROUNDS.—Nothing in this Act may be construed to affect the functions or authorities of the Administrator of General Services with respect to the operation, maintenance, and protection of buildings and grounds owned or occupied by the Federal Government and under the jurisdiction, custody, or control of the Administrator. Except for the law enforcement and related security functions transferred under section 403(3), the Administrator shall retain all powers, functions, and authorities vested in the Administrator under chapter 10 of title 40, United States Code, and other provisions of law that are necessary for the operation, maintenance, and protection of such buildings and grounds.

(b) COLLECTION OF RENTS AND FEES; FEDERAL BUILDINGS FUND.—

(1) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(A) to direct the transfer of, or affect, the authority of the Administrator of General Services to collect rents and fees, including fees collected for protective services; or

(B) to authorize the Secretary or any other official in the Department to obligate amounts in the Federal Buildings Fund established by section 490(f) of title 40, United States Code.

(2) USE OF TRANSFERRED AMOUNTS.—Any amounts transferred by the Administrator of General Services to the Secretary out of rents and fees collected by the Administrator shall be used by the Secretary solely for the protection of buildings or grounds owned or occupied by the Federal Government.

SEC. 423. FUNCTIONS OF TRANSPORTATION SECURITY ADMINISTRATION.

(a) CONSULTATION WITH FEDERAL AVIATION ADMINISTRATION.—The Secretary and other officials in the Department shall consult with the Administrator of the Federal Aviation Administration before taking any action that might affect aviation safety, air carrier operations, aircraft airworthiness, or the use of airspace. The Secretary shall establish a liaison office within the Department for the purpose of consulting with the Administrator of the Federal Aviation Administration.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report containing a plan for complying with the requirements of section 44901(d) of title 49, United States Code, as amended by section 425 of this Act.

(c) LIMITATIONS ON STATUTORY CONSTRUCTION.—

(1) GRANT OF AUTHORITY.—Nothing in this Act may be construed to vest in the Secretary or any other official in the Department any authority over transportation security that is not vested in the Under Secretary of Transportation for Security, or in the Secretary of Transportation under chapter 449 of title 49, United States Code, on the day before the date of enactment of this Act.

(2) OBLIGATION OF AIP FUNDS.—Nothing in this Act may be construed to authorize the Secretary or any other official in the Department to obligate amounts made available under section 48103 of title 49, United States Code.

SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, and subject to subsection (b), the Transportation Security Administration shall be maintained as a distinct entity within the Department under the Under Secretary for Border Transportation and Security.

(b) SUNSET.—Subsection (a) shall cease to apply 2 years after the date of enactment of this Act.

SEC. 425. EXPLOSIVE DETECTION SYSTEMS.

Section 44901(d) of title 49, United States Code, is amended by adding at the end the following:

''(2) DEADLINE.—

''(A) IN GENERAL.—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

''(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

''(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

''(B) CRITERIA FOR DETERMINATION.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

''(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

''(ii) the need to ensure that such installations and modifications are effective; and

''(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

''(C) RESPONSE.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

''(D) AIRPORT EFFORT REQUIRED.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

''(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

''(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

''(3) REPORTS.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.''.

SEC. 426. TRANSPORTATION SECURITY.

(a) TRANSPORTATION SECURITY OVERSIGHT BOARD.—

(1) ESTABLISHMENT.—Section 115(a) of title 49, United States Code, is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(2) MEMBERSHIP.—Section 115(b)(1) of title 49, United States Code, is amended—

(A) by striking subparagraph (G);

(B) by redesignating subparagraphs (A) through (F) as subparagraphs (B) through (G), respectively; and

(C) by inserting before subparagraph (B) (as so redesignated) the following:

''(A) The Secretary of Homeland Security, or the Secretary's designee.''.

(3) CHAIRPERSON.—Section 115(b)(2) of title 49, United States Code, is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security''.

(b) APPROVAL OF AIP GRANT APPLICATIONS FOR SECURITY ACTIVITIES.—Section 47106 of title 49, United States Code, is amended by adding at the end the following:

''(g) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.''.

SEC. 427. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term ''affected agency'' means—

(1) the Department;

(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.

(b) COORDINATION.—The Secretary, 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, shall ensure that appropriate information (as determined by the Secretary) 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, 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, 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.

SEC. 428. VISA ISSUANCE.

(a) DEFINITION.—In this subsection, the term ''consular office'' has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) 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 in subsection (c) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, and shall have the authority to refuse visas in accordance with law and to develop programs of homeland security training for consular officers (in addition to consular training provided by the Secretary of State), which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(2) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c) AUTHORITY OF THE SECRETARY OF STATE.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) CONSTRUCTION REGARDING AUTHORITY.—Nothing in this section, consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law, shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (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).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104–114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999); 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106–553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681–865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—

(1) IN GENERAL.—Nothing in this section 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. 3927).

(2) CONSTRUCTION REGARDING DELEGATION OF AUTHORITY.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)), consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law.

(e) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) FUNCTIONS.—Employees assigned under paragraph (1) shall perform the following functions:

(A) Provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(B) 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.

(C) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) EVALUATION OF CONSULAR OFFICERS.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) REPORT.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) TRAINING AND HIRING.—

(A) IN GENERAL.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, and fraud detection techniques, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) 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 subparagraph (A).

(7) 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.

(8) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding 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.

(f) NO CREATION OF PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

(g) STUDY REGARDING USE OF FOREIGN NATIONALS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct a study of the role of foreign nationals in the granting or refusal of visas and other documents authorizing entry of aliens into the United States. The study shall address the following:

(A) The proper role, if any, of foreign nationals in the process of rendering decisions on such grants and refusals.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the use of foreign nationals.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report containing the findings of the study conducted under paragraph (1) to the Committee on the Judiciary, the Committee on International Relations, and the Committee on Government Reform of the House of Representatives, and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Government Affairs of the Senate.

(h) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report on how the provisions of this section will affect procedures for the issuance of student visas.

(i) VISA ISSUANCE PROGRAM FOR SAUDI ARABIA.—Notwithstanding any other provision of law, after the date of the enactment of this Act all third party screening programs in Saudi Arabia shall be terminated. On-site personnel of the Department of Homeland Security shall review all visa applications prior to adjudication.

SEC. 429. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) IN GENERAL.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) PROHIBITION.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) IN GENERAL.—The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.

(b) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.

(c) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(3) directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

(4) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(5) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(6) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(7) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the Directorate; and

(8) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) FISCAL YEARS 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

Subtitle D—Immigration Enforcement Functions

SEC. 441. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the Under Secretary for Border and Transportation Security all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(1) The Border Patrol program.

(2) The detention and removal program.

(3) The intelligence program.

(4) The investigations program.

(5) The inspections program.

SEC. 442. ESTABLISHMENT OF BUREAU OF BORDER SECURITY.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department of Homeland Security a bureau to be known as the ''Bureau of Border Security''.

(2) ASSISTANT SECRETARY.—The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security, who—

(A) shall report directly to the Under Secretary for Border and Transportation Security; and

(B) shall have a minimum of 5 years professional experience in law enforcement, and a minimum of 5 years of management experience.

(3) FUNCTIONS.—The Assistant Secretary of the Bureau of Border Security—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the Under Secretary for Border and Transportation Security by section 441 and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

(ii) otherwise vested in the Assistant Secretary by law;

(B) shall oversee the administration of such policies; and

(C) shall advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Border Security that may affect the Bureau of Citizenship and Immigration Services established under subtitle E, including potentially conflicting policies or operations.

(4) PROGRAM TO COLLECT INFORMATION RELATING TO FOREIGN STUDENTS.—The Assistant Secretary of the Bureau of Border Security shall be responsible for administering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

(5) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the date on which the transfer of functions specified under section 441 takes effect, the Assistant Secretary of the Bureau of Border Security shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one local office of such bureau.

(B) REPORT.—Not later than 2 years after the date on which the transfer of functions specified under section 441 takes effect, the Secretary shall submit a report to the Congress on the implementation of such program.

(b) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Border Security.

(2) FUNCTIONS.—In consultation with Bureau of Border Security personnel in local offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration enforcement issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services (established under subtitle E), as appropriate.

(c) LEGAL ADVISOR.—There shall be a principal legal advisor to the Assistant Secretary of the Bureau of Border Security. The legal advisor shall provide specialized legal advice to the Assistant Secretary of the Bureau of Border Security and shall represent the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review.

SEC. 443. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

The Under Secretary for Border and Transportation Security shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Border Security that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Border Security and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Border Security.

SEC. 444. EMPLOYEE DISCIPLINE.

The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.

SEC. 445. REPORT ON IMPROVING ENFORCEMENT FUNCTIONS.

(a) IN GENERAL.—The Secretary, not later than 1 year after being sworn into office, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 441 takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such functions.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Secretary of State, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Director of the Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

SEC. 446. SENSE OF CONGRESS REGARDING CONSTRUCTION OF FENCING NEAR SAN DIEGO, CALIFORNIA.

It is the sense of the Congress that completing the 14-mile border fence project required to be carried out under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) should be a priority for the Secretary.

Subtitle E—Citizenship and Immigration Services

SEC. 451. ESTABLISHMENT OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department a bureau to be known as the ''Bureau of Citizenship and Immigration Services''.

(2) DIRECTOR.—The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services, who—

(A) shall report directly to the Deputy Secretary;

(B) shall have a minimum of 5 years of management experience; and

(C) shall be paid at the same level as the Assistant Secretary of the Bureau of Border Security.

(3) FUNCTIONS.—The Director of the Bureau of Citizenship and Immigration Services—

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this Act or otherwise vested in the Director by law;

(B) shall oversee the administration of such policies;

(C) shall advise the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security of the Department, including potentially conflicting policies or operations;

(D) shall establish national immigration services policies and priorities;

(E) shall meet regularly with the Ombudsman described in section 452 to correct serious service problems identified by the Ombudsman; and

(F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to Congress within 3 months after its submission to Congress.

(4) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 455, the Director of the Bureau of Citizenship and Immigration Services shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one field office and one service center of such bureau.

(B) REPORT.—Not later than 2 years after the effective date specified in section 455, the Secretary shall submit a report to Congress on the implementation of such program.

(5) PILOT INITIATIVES FOR BACKLOG ELIMINATION.—The Director of the Bureau of Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such applications from recurring, in accordance with section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)). Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

(b) TRANSFER OF FUNCTIONS FROM COMMISSIONER.—In accordance with title XV (relating to transition provisions), there are transferred from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:

(1) Adjudications of immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.

(c) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—In consultation with Bureau of Citizenship and Immigration Services personnel in field offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration services issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Border Security of the Department.

(d) LEGAL ADVISOR.—

(1) IN GENERAL.—There shall be a principal legal advisor to the Director of the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The legal advisor shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Director of the Bureau of Citizenship and Immigration Services with respect to legal matters affecting the Bureau of Citizenship and Immigration Services; and

(B) representing the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review.

(e) BUDGET OFFICER.—

(1) IN GENERAL.—There shall be a Budget Officer for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—

(A) IN GENERAL.—The Budget Officer shall be responsible for—

(i) formulating and executing the budget of the Bureau of Citizenship and Immigration Services;

(ii) financial management of the Bureau of Citizenship and Immigration Services; and

(iii) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services.

(f) CHIEF OF OFFICE OF CITIZENSHIP.—

(1) IN GENERAL.—There shall be a position of Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

SEC. 452. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN.

(a) IN GENERAL.—Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the ''Ombudsman''). The Ombudsman shall report directly to the Deputy Secretary. The Ombudsman shall have a background in customer service as well as immigration law.

(b) FUNCTIONS.—It shall be the function of the Ombudsman—

(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2).

(c) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

(A) shall identify the recommendations the Office of the Ombudsman has made on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior comment or amendment from the Secretary, Deputy Secretary, Director of the Bureau of Citizenship and Immigration Services, or any other officer or employee of the Department or the Office of Management and Budget.

(d) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(e) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman's responsibilities under this subsection.

(f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such director by the Ombudsman within 3 months after submission to such director.

(g) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department and report directly to Congress through the Ombudsman; and

(D) at the local ombudsman's discretion, may determine not to disclose to the Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the Ombudsman shall maintain a phone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

SEC. 453. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

(a) IN GENERAL.—The Director of the Bureau of Citizenship and Immigration Services shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Citizenship and Immigration Services and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Citizenship and Immigration Services.

(b) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with subsection (a)(2) with respect to a decision of the Bureau of Citizenship and Immigration Services, or any of its components, consideration shall be given to—

(1) the accuracy of the findings of fact and conclusions of law used in rendering the decision;

(2) any fraud or misrepresentation associated with the decision; and

(3) the efficiency with which the decision was rendered.

SEC. 454. EMPLOYEE DISCIPLINE.

The Director of the Bureau of Citizenship and Immigration Services may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Citizenship and Immigration Services who willfully deceives Congress or agency leadership on any matter.

SEC. 455. EFFECTIVE DATE.

Notwithstanding section 4, sections 451 through 456, and the amendments made by such

sections, shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 456. TRANSITION.

(a) REFERENCES.—With respect to any function transferred by this subtitle to, and exercised on or after the effective date specified in section 455 by, the Director of the Bureau of Citizenship and Immigration Services, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Bureau of Citizenship and Immigration Services; or

(2) to such component is deemed to refer to the Bureau of Citizenship and Immigration Services.

(b) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this subtitle may, for purposes of performing the function, exercise all authorities 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 function immediately before the effective date specified in section 455.

(2) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this subtitle (and functions that the Secretary determines are properly related to the functions of the Bureau of Citizenship and Immigration Services), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this subtitle, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Bureau of Citizenship and Immigration Services for allocation to the appropriate component of the Department. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated. The Secretary shall have the right to adjust or realign transfers of funds and personnel effected pursuant to this subtitle for a period of 2 years after the effective date specified in section 455.

SEC. 457. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

Section 286(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.''.

SEC. 458. BACKLOG ELIMINATION.

Section 204(a)(1) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)(1)) is amended by striking ''not later than one year after the date of enactment of this Act;'' and inserting ''1 year after the date of the enactment of the Homeland Security Act of 2002;''.

SEC. 459. REPORT ON IMPROVING IMMIGRATION SERVICES.

(a) IN GENERAL.—The Secretary, not later than 1 year after the effective date of this Act, shall submit to the Committees on the Judiciary and Appropriations of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Citizenship and Immigration Services, after the transfer of functions specified in this subtitle takes effect, will complete efficiently, fairly, and within a reasonable time, the adjudications described in paragraphs (1) through (5) of section 451(b).

(b) CONTENTS.—For each type of adjudication to be undertaken by the Director of the Bureau of Citizenship and Immigration Services, the report shall include the following:

(1) Any potential savings of resources that may be implemented without affecting the quality of the adjudication.

(2) The goal for processing time with respect to the application.

(3) Any statutory modifications with respect to the adjudication that the Secretary considers advisable.

(c) CONSULTATION.—In carrying out subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Labor, the Assistant Secretary of the Bureau of Border Security of the Department, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process for applying for and making adjudications described in section 451(b) and related processes.

SEC. 460. REPORT ON RESPONDING TO FLUCTUATING NEEDS.

Not later than 30 days after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on changes in law, including changes in authorizations of appropriations and in appropriations, that are needed to permit the Immigration and Naturalization Service, and, after the transfer of functions specified in this subtitle takes effect, the Bureau of Citizenship and Immigration Services of the Department, to ensure a prompt and timely response to emergent, unforeseen, or impending changes in the number of applications for immigration benefits, and otherwise to ensure the accommodation of changing immigration service needs.

SEC. 461. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF TRACKING SYSTEM.—The Secretary, not later than 1 year after the effective date of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Secretary for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) FEASIBILITY STUDY FOR ONLINE FILING AND IMPROVED PROCESSING.—

(1) ONLINE FILING.—The Secretary, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

(2) REPORT.—A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the effective date of this Act.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish, not later than 60 days after the effective date of this Act, an advisory committee (in this section referred to as the ''Technology Advisory Committee'') to assist the Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b). The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the House of Representatives and the Senate.

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

SEC. 462. CHILDREN'S AFFAIRS.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration laws of the United States with respect to the care of unaccompanied alien children that were vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (d).

(b) FUNCTIONS.—

(1) IN GENERAL.—Pursuant to the transfer made by subsection (a), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child;

(C) making placement determinations for all unaccompanied alien children who are in Federal custody by reason of their immigration status;

(D) implementing the placement determinations;

(E) implementing policies with respect to the care and placement of unaccompanied alien children;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien children;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien children reside;

(H) reuniting unaccompanied alien children with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children;

(J) maintaining statistical information and other data on unaccompanied alien children for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody by reason of his or her immigration status;

(iii) information relating to the child's placement, removal, or release from each facility in which the child has resided;

(iv) in any case in which the child is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the child is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien children; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(2) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of the Bureau of Citizenship and Immigration Services, and the Assistant Secretary of the Bureau of Border Security to ensure that such determinations ensure that unaccompanied alien children described in such subparagraph—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity; and

(iii) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(B) shall not release such children upon their own recognizance.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to use the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien children.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.

(d) EFFECTIVE DATE.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

(e) REFERENCES.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(f) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities 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 function immediately before the effective date specified in subsection (d).

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 1512 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this section, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) DEFINITIONS.—As used in this section—

(1) the term ''placement'' means the placement of an unaccompanied alien child in either a detention facility or an alternative to such a facility; and

(2) the term ''unaccompanied alien child'' means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained 18 years of age; 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.

Subtitle F—General Immigration Provisions

SEC. 471. ABOLISHMENT OF INS.

(a) IN GENERAL.—Upon completion of all transfers from the Immigration and Naturalization Service as provided for by this Act, the Immigration and Naturalization Service of the Department of Justice is abolished.

(b) PROHIBITION.—The authority provided by section 1502 may be used to reorganize functions or organizational units within the Bureau of Border Security or the Bureau of Citizenship and Immigration Services, but may not be used to recombine the two bureaus into a single agency or otherwise to combine, join, or consolidate functions or organizational units of the two bureaus with each other.

SEC. 472. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) has completed at least 3 years of current continuous service with 1 or more covered entities; and

(B) is serving under an appointment without time limitation;

but does not include any person under subparagraphs (A)–(G) of section 663(a)(2) of Public Law 104–208 (5 U.S.C. 5597 note);

(2) the term ''covered entity'' means—

(A) the Immigration and Naturalization Service;

(B) the Bureau of Border Security of the Department of Homeland Security; and

(C) the Bureau of Citizenship and Immigration Services of the Department of Homeland Security; and

(3) the term ''transfer date'' means the date on which the transfer of functions specified under section 441 takes effect.

(b) STRATEGIC RESTRUCTURING PLAN.—Before the Attorney General or the Secretary obligates any resources for voluntary separation incentive payments under this section, such official shall submit to the appropriate committees of Congress a strategic restructuring plan, which shall include—

(1) an organizational chart depicting the covered entities after their restructuring pursuant to this Act;

(2) a summary description of how the authority under this section will be used to help carry out that restructuring; and

(3) the information specified in section 663(b)(2) of Public Law 104–208 (5 U.S.C. 5597 note).

As used in the preceding sentence, the ''appropriate committees of Congress'' are the Committees on Appropriations, Government Reform, and the Judiciary of the House of Representatives, and the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate.

(c) AUTHORITY.—The Attorney General and the Secretary may, to the extent necessary to help carry out their respective strategic restructuring plan described in subsection (b), make voluntary separation incentive payments to employees. Any such payment—

(1) shall be paid to the employee, in a lump sum, after the employee has separated from service;

(2) shall be paid from appropriations or funds available for the payment of basic pay of the employee;

(3) shall be equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(B) an amount not to exceed $25,000, as determined by the Attorney General or the Secretary;

(4) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before the end of—

(A) the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(B) the 3-year period beginning on the date of the enactment of this Act,

whichever occurs first;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any payments which it is otherwise required to make, the Department of Justice and the Department of Homeland Security shall, for each fiscal year with respect to which it makes any voluntary separation incentive payments under this section, remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund the amount required under paragraph (2).

(2) AMOUNT REQUIRED.—The amount required under this paragraph shall, for any fiscal year, be the amount under subparagraph (A) or (B), whichever is greater.

(A) FIRST METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additional costs to the retirement systems under title 5, United States Code (payable out of the Civil Service Retirement and Disability Fund) resulting from the voluntary separation of the employees described in paragraph (3), as determined under regulations of the Office of Personnel Management.

(B) SECOND METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

(3) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subsection relates.

(4) FINAL BASIC PAY DEFINED.—In this subsection, the term ''final basic pay'' means, with respect to an employee, the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who receives a voluntary separation incentive payment under this section and who, within 5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual's first day of employment, the entire

amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Deputy Secretary or the Under Secretary for Border and Transportation Security (for transfer to the appropriate component of the Department of Homeland Security, if necessary).

(f) EFFECT ON EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in any covered entity.

(2) USE OF VOLUNTARY SEPARATIONS.—A covered entity may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 473. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT RELATING TO DISCIPLINARY ACTION.

(a) IN GENERAL.—The Attorney General and the Secretary may each, during a period ending not later than 5 years after the date of the enactment of this Act, conduct a demonstration project for the purpose of determining whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management.

(b) SCOPE.—A demonstration project under this section—

(1) may not cover any employees apart from those employed in or under a covered entity; and

(2) shall not be limited by any provision of chapter 43, 75, or 77 of title 5, United States Code.

(c) PROCEDURES.—Under the demonstration project—

(1) the use of alternative means of dispute resolution (as defined in section 571 of title 5, United States Code) shall be encouraged, whenever appropriate; and

(2) each covered entity under the jurisdiction of the official conducting the project shall be required to provide for the expeditious, fair, and independent review of any action to which section 4303 or subchapter II of chapter 75 of such title 5 would otherwise apply (except an action described in section 7512(5) of such title 5).

(d) ACTIONS INVOLVING DISCRIMINATION.—Notwithstanding any other provision of this section, if, in the case of any matter described in section 7702(a)(1)(B) of title 5, United States Code, there is no judicially reviewable action under the demonstration project within 120 days after the filing of an appeal or other formal request for review (referred to in subsection (c)(2)), an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 7702(e)(1) of such title 5 (in the matter following subparagraph (C) thereof).

(e) CERTAIN EMPLOYEES.—Employees shall not be included within any project under this section if such employees are—

(1) neither managers nor supervisors; and

(2) within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code. Notwithstanding the preceding sentence, an aggrieved employee within a unit (referred to in paragraph (2)) may elect to participate in a complaint procedure developed under the demonstration project in lieu of any negotiated grievance procedure and any statutory procedure (as such term is used in section 7121 of such title 5).

(f) REPORTS.—The General Accounting Office shall prepare and submit to the Committees on Government Reform and the Judiciary of the House of Representatives and the Committees on Governmental Affairs and the Judiciary of the Senate periodic reports on any demonstration project conducted under this section, such reports to be submitted after the second and fourth years of its operation. Upon request, the Attorney General or the Secretary shall furnish such information as the General Accounting Office may require to carry out this subsection.

(g) DEFINITION.—In this section, the term ''covered entity'' has the meaning given such term in section 472(a)(2).

SEC. 474. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the missions of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services are equally important and, accordingly, they each should be adequately funded; and

(2) the functions transferred under this subtitle should not, after such transfers take effect, operate at levels below those in effect prior to the enactment of this Act.

SEC. 475. DIRECTOR OF SHARED SERVICES.

(a) IN GENERAL.—Within the Office of Deputy Secretary, there shall be a Director of Shared Services.

(b) FUNCTIONS.—The Director of Shared Services shall be responsible for the coordination of resources for the Bureau of Border Security and the Bureau of Citizenship and Immigration Services, including—

(1) information resources management, including computer databases and information technology;

(2) records and file management; and

(3) forms management.

SEC. 476. SEPARATION OF FUNDING.

(a) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other deposits available for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) SEPARATE BUDGETS.—To ensure that the Bureau of Citizenship and Immigration Services and the Bureau of Border Security are funded to the extent necessary to fully carry out their respective functions, the Director of the Office of Management and Budget shall separate the budget requests for each such entity.

(c) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under subsection (a) that is for the bureau with jurisdiction over the function to which the fee relates.

(d) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security for purposes not authorized by section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

SEC. 477. REPORTS AND IMPLEMENTATION PLANS.

(a) DIVISION OF FUNDS.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) DIVISION OF PERSONNEL.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division of personnel between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(c) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—The Secretary, not later than 120 days after the effective date of this Act, and every 6 months thereafter until the termination of fiscal year 2005, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate an implementation plan to carry out this Act.

(2) CONTENTS.—The implementation plan should include details concerning the separation of the Bureau of Citizenship and Immigration Services and the Bureau of Border Security, including the following:

(A) Organizational structure, including the field structure.

(B) Chain of command.

(C) Procedures for interaction among such bureaus.

(D) Fraud detection and investigation.

(E) The processing and handling of removal proceedings, including expedited removal and applications for relief from removal.

(F) Recommendations for conforming amendments to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(G) Establishment of a transition team.

(H) Methods to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(d) COMPTROLLER GENERAL STUDIES AND REPORTS.—

(1) STATUS REPORTS ON TRANSITION.—Not later than 18 months after the date on which the transfer of functions specified under section 441 takes effect, and every 6 months thereafter, until full implementation of this subtitle has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report containing the following:

(A) A determination of whether the transfers of functions made by subtitles D and E have been completed, and if a transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfers of functions made by subtitles D and E have been completed, an identification of any issues that have arisen due to the completed transfers.

(C) An identification of any issues that may arise due to any future transfer of functions.

(2) REPORT ON MANAGEMENT.—Not later than 4 years after the date on which the transfer of functions specified under section 441 takes effect, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security have improved, with respect to each function transferred, the following:

(i) Operations.

(ii) Management, including accountability and communication.

(iii) Financial administration.

(iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(3) REPORT ON FEES.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds.

SEC. 478. IMMIGRATION FUNCTIONS.

(a) ANNUAL REPORT.—

(1) IN GENERAL.—One year after the date of the enactment of this Act, and each year thereafter, the Secretary shall submit a report to the President, to the Committees on the Judiciary

and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate, on the impact the transfers made by this subtitle has had on immigration functions.

(2) MATTER INCLUDED.—The report shall address the following with respect to the period covered by the report:

(A) The aggregate number of all immigration applications and petitions received, and processed, by the Department;

(B) Region-by-region statistics on the aggregate number of immigration applications and petitions filed by an alien (or filed on behalf of an alien) and denied, disaggregated by category of denial and application or petition type.

(C) The quantity of backlogged immigration applications and petitions that have been processed, the aggregate number awaiting processing, and a detailed plan for eliminating the backlog.

(D) The average processing period for immigration applications and petitions, disaggregated by application or petition type.

(E) The number and types of immigration-related grievances filed with any official of the Department of Justice, and if those grievances were resolved.

(F) Plans to address grievances and improve immigration services.

(G) Whether immigration-related fees were used consistent with legal requirements regarding such use.

(H) Whether immigration-related questions conveyed by customers to the Department (whether conveyed in person, by telephone, or by means of the Internet) were answered effectively and efficiently.

(b) SENSE OF CONGRESS REGARDING IMMIGRATION SERVICES.—It is the sense of Congress that—

(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this subtitle take effect; and

(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

SEC. 502. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall include—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, which shall be renamed ''FIRESAT''.

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(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.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 506. DEFINITION.

In this title, the term ''Nuclear Incident Response Team'' means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

SEC. 507. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) FEDERAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order 12148 (44 Fed. Reg. 43239) and Executive Order 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

SEC. 508. USE OF NATIONAL PRIVATE SECTOR NETWORKS IN EMERGENCY RESPONSE.

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

SEC. 509. USE OF COMMERCIALLY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES.

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the

private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

SEC. 601. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS.

(a) FINDINGS.—Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism declared by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a $6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a ''Johnny Micheal Spann Patriot Trust''.

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, or law enforcement operations or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107–40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) None of the activities of any Johnny Micheal Spann Patriot Trust shall be conducted in a manner inconsistent with any law that prohibits attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than $1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in paragraph (1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in paragraph (1).

(d) TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 301(20)(A) of the Federal Election Campaign Act of 1971 so that a general solicitation of funds by an individual described in paragraph (1) of section 323(e) of such Act will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

(e) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods and sensitive law enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust; provided that, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

(f) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) The budget, appropriations, expenditures of funds, accounting, and finance.

(2) Procurement.

(3) Human resources and personnel.

(4) Information technology and communications systems.

(5) Facilities, property, equipment, and other material resources.

(6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.

(7) Identification and tracking of performance measures relating to the responsibilities of the Department.

(8) Grants and other assistance management programs.

(9) The transition and reorganization process, to ensure an efficient and orderly transfer of functions and personnel to the Department, including the development of a transition plan.

(10) The conduct of internal audits and management analyses of the programs and activities of the Department.

(11) Any other management duties that the Secretary may designate.

(b) IMMIGRATION.—

(1) IN GENERAL.—In addition to the responsibilities described in subsection (a), the Under Secretary for Management shall be responsible for the following:

(A) Maintenance of all immigration statistical information of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services. Such statistical information shall include information and statistics of the type contained in the publication entitled ''Statistical Yearbook of the Immigration and Naturalization Service'' prepared by the Immigration and Naturalization Service (as in effect immediately before the date on which the transfer of functions specified under section 441 takes effect), including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such bureau, and the reasons for such denials, disaggregated by category of denial and application or petition type.

(B) Establishment of standards of reliability and validity for immigration statistics collected by such bureaus.

(2) TRANSFER OF FUNCTIONS.—In accordance with title XV, there shall be transferred to the Under Secretary for Management all functions performed immediately before such transfer occurs by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service with respect to the following programs:

(A) The Border Patrol program.

(B) The detention and removal program.

(C) The intelligence program.

(D) The investigations program.

(E) The inspections program.

(F) Adjudication of immigrant visa petitions.

(G) Adjudication of naturalization petitions.

(H) Adjudication of asylum and refugee applications.

(I) Adjudications performed at service centers.

(J) All other adjudications performed by the Immigration and Naturalization Service.

SEC. 702. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 703. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 704. CHIEF HUMAN CAPITAL OFFICER.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

SEC. 705. ESTABLISHMENT OF OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

(a) IN GENERAL.—The Secretary shall appoint in the Department an Officer for Civil Rights and Civil Liberties, who shall—

(1) review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling by employees and officials of the Department; and

(2) make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer.

(b) REPORT.—The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) and any actions taken by the Department in response to such allegations.

SEC. 706. CONSOLIDATION AND CO-LOCATION OF OFFICES.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a plan for consolidating and co-locating—

(1) any regional offices or field offices of agencies that are transferred to the Department under this Act, if such officers are located in the same municipality; and

(2) portions of regional and field offices of other Federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 801. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland; and

(4) develop a process for receiving meaningful input from State and local government to assist the development of the national strategy for combating terrorism and other homeland security activities.

Subtitle B—Inspector General

SEC. 811. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(1) intelligence, counterintelligence, or counterterrorism 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, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF CERTAIN INVESTIGATIONS.—With respect to the information described in subsection (a), 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 prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION REQUIRED.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing 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 and a written response thereto that includes—

(1) a statement as to whether the Inspector General agrees or disagrees with such exercise; and

(2) the reasons for any disagreement, to the President of the Senate and the Speaker of the House of Representatives and to appropriate committees and subcommittees of Congress.

(d) ACCESS TO INFORMATION BY CONGRESS.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(e) OVERSIGHT RESPONSIBILITY—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8I the following:

''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 performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.''.

SEC. 812. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

''(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

''(B) 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, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

''(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

''(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

''(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

''(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

''(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

''(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of 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 requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

''(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

''(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that

Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

''(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with 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 subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable 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 deputation.''.

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term ''memoranda of understanding'' means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under 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 (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) 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.

Subtitle C—United States Secret Service

SEC. 821. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—Acquisitions

SEC. 831. RESEARCH AND DEVELOPMENT PROJECTS.

(a) AUTHORITY.—During the 5-year period following the effective date of this Act, the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1) IN GENERAL.—When the Secretary carries out basic, applied, and advanced research and development projects, including the expenditure of funds for such projects, the Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (b) of this section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) PROTOTYPE PROJECTS.—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) REPORT.—Not later than 2 years after the effective date of this Act, and annually thereafter, the Comptroller General shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on—

(1) whether use of the authorities described in subsection (a) attracts nontraditional Government contractors and results in the acquisition of needed technologies; and

(2) if such authorities were to be made permanent, whether additional safeguards are needed with respect to the use of such authorities.

(c) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

(d) DEFINITION OF NONTRADITIONAL GOVERNMENT CONTRACTOR.—In this section, the term ''nontraditional Government contractor'' has the same meaning as the term ''nontraditional defense contractor'' as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

SEC. 832. PERSONAL SERVICES.

The Secretary—

(1) may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109 of title 5, United States Code; and

(2) may, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 833. SPECIAL STREAMLINED ACQUISITION AUTHORITY.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may use the authorities set forth in this section with respect to any procurement made during the period beginning on the effective date of this Act and ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in section 101) would be seriously impaired without the use of such authorities.

(2) DELEGATION.—The authority to make the determination described in paragraph (1) may not be delegated by the Secretary to an officer of the Department who is not appointed by the President with the advice and consent of the Senate.

(3) NOTIFICATION.—Not later than the date that is 7 days after the date of any determination under paragraph (1), the Secretary shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) notification of such determination; and

(B) the justification for such determination.

(b) INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.—

(1) IN GENERAL.—The Secretary may designate certain employees of the Department to make procurements described in subsection (a) for which in the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

(2) NUMBER OF EMPLOYEES.—The number of employees designated under paragraph (1) shall be—

(A) fewer than the number of employees of the Department who are authorized to make purchases without obtaining competitive quotations, pursuant to section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c));

(B) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(C) sufficiently limited to allow for the careful monitoring of employees designated under such paragraph.

(3) REVIEW.—Procurements made under the authority of this subsection shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than 7 employees making procurements under this subsection.

(c) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to be—

(A) in the case of a contract to be awarded and performed, or purchase to be made, within the United States, $200,000; and

(B) in the case of a contract to be awarded and performed, or purchase to be made, outside of the United States, $300,000.

(2) CONFORMING AMENDMENTS.—Section 18(c)(1) of the Office of Federal Procurement Policy Act is amended—

(A) by striking ''or'' at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting ''; or''; and

(C) by adding at the end the following:

''(H) the procurement is by the Secretary of Homeland Security pursuant to the special procedures provided in section 833(c) of the Homeland Security Act of 2002.''.

(d) APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

(2) LIMITATION.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C.

427(a)(2)) and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall be deemed to be $7,500,000 for purposes of property or services under the authority of this subsection.

(3) CERTAIN AUTHORITY.—Authority under a provision of law referred to in paragraph (2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for a procurement described in subsection (a).

(e) REPORT.—Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 101.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1).

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) to monitor the use of procurement authority by employees designated under subsection (b)(1).

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

SEC. 834. UNSOLICITED PROPOSALS.

(a) REGULATIONS REQUIRED.—Within 1 year of the date of enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations with regard to unsolicited proposals.

(b) CONTENT OF REGULATIONS.—The regulations prescribed under subsection (a) shall require that before initiating a comprehensive evaluation, an agency contact point shall consider, among other factors, that the proposal—

(1) is not submitted in response to a previously published agency requirement; and

(2) contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost-related or price-related factors.

SEC. 835. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b).

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity completes after the date of enactment of this Act, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is after the date of enactment of this Act and which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as I partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary to—

(i) treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock; and

(ii) treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701 (a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVERS.—The Secretary shall waive subsection (a) with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security, or to prevent the loss of any jobs in the United States or prevent the Government from incurring any additional costs that otherwise would not occur.

Subtitle E—Human Resources Management

SEC. 841. 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 of the Department be allowed 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 be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

''Sec.
''9701. Establishment of human resources management system.

''§ 9701. Establishment of human resources management system

''(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

''(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

''(1) be flexible;

''(2) be contemporary;

''(3) not waive, modify, or otherwise affect—

''(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

''(B) any provision of section 2302, relating to prohibited personnel practices;

''(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

''(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

''(I) providing for equal employment opportunity through affirmative action; or

''(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

''(D) any other provision of this part (as described in subsection (c)); or

''(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

''(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

''(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

''(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

''(1) subparts A, B, E, G, and H of this part; and

''(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

''(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

''(1) to modify the pay of any employee who serves in—

''(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

''(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

''(2) to fix pay for any employee or position at an annual rate greater than the maximum

amount of cash compensation allowable under section 5307 of such title 5 in a year; or

''(3) to exempt any employee from the application of such section 5307.

''(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

''(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

''(A) NOTICE OF PROPOSAL.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

''(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

''(ii) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

''(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

''(B) PRE-IMPLEMENTATION CONGRESSIONAL NOTIFICATION, CONSULTATION, AND MEDIATION.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

''(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

''(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

''(iii) at the Secretary's option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

''(C) IMPLEMENTATION.—

''(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the Secretary and the Director, may be implemented immediately.

''(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

''(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

''(D) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

''(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

''(ii) give each 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 as internal rules of departmental procedure which shall not be subject to review. Such procedures shall include measures to ensure—

''(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 appropriate, consistent with the purposes of the subsection;

''(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

''(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

''(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

''(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 prescribing 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; and

''(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 section 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; and

''(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

''(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

''(g) PROVISIONS RELATING TO LABOR-MANAGEMENT RELATIONS.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

''(h) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.''.

(3) TECHNICAL AND CONFORMING 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 Security 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer under 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 1 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 pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 842. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—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) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) WAIVER.—If the President determines that the application of subsections (a), (b), and (d) would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in 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 section.

(e) RULE OF CONSTRUCTION.—Nothing in section 9701(e) of title 5, United States Code, shall be considered to apply with respect to any agency or subdivision of any agency, which is excluded from the coverage of chapter 71 of title 5, United States Code, by virtue of an order issued in accordance with section 7103(b) of such title and the preceding provisions of this section (as applicable), or to any employees of any such agency or subdivision or to any individual or entity representing any such employees or any representatives thereof.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 851. DEFINITION.

In this subtitle, the term ''executive agency'' has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 852. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

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, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 853. 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 852 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, $200,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $300,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term ''simplified acquisition threshold definitions'' means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 854. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 852, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

SEC. 855. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 852 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 856. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 852, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 852.

SEC. 857. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIREMENTS.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following matters:

(1) ASSESSMENT.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

SEC. 858. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

SEC. 861. SHORT TITLE.

This subtitle may be cited as the ''Support Anti-terrorism by Fostering Effective Technologies Act of 2002'' or the ''SAFETY Act''.

SEC. 862. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall be responsible for the administration of this subtitle.

(b) DESIGNATION OF QUALIFIED ANTI-TERRORISM TECHNOLOGIES.—The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this subtitle in accordance with criteria that shall include, but not be limited to, the following:

(1) Prior United States government use or demonstrated substantial utility and effectiveness.

(2) Availability of the technology for immediate deployment in public and private settings.

(3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.

(4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this subtitle are extended.

(5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.

(6) Evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.

(7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism, including technologies that prevent, defeat or respond to such acts.

(c) REGULATIONS.—The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States, Code, as may be necessary to carry out this subtitle.

SEC. 863. LITIGATION MANAGEMENT.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law. Such Federal cause of action shall be brought only for claims for injuries that are proximately caused by sellers that provide qualified anti-terrorism technology to Federal and non-Federal government customers.

(2) JURISDICTION.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller.

(b) SPECIAL RULES.—In an action brought under this section for damages the following provisions apply:

(1) PUNITIVE DAMAGES.—No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2) NONECONOMIC DAMAGES.—

(A) IN GENERAL.—Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) DEFINITION.—For purposes of subparagraph (A), the term ''noneconomic damages'' means damages for losses 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, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(c) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action under this section shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(d) GOVERNMENT CONTRACTOR DEFENSE.—

(1) IN GENERAL.—Should a product liability or other lawsuit be filed for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in paragraphs (2) and (3) of this subsection, have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, there shall be a rebuttable presumption that the government contractor defense applies in such lawsuit. This presumption shall only be overcome by evidence showing that the Seller acted fraudulently or with willful misconduct in submitting information to the Secretary during the course of the Secretary's consideration of such technology under this subsection. This presumption of the government contractor defense shall apply regardless of whether the claim against the Seller arises from a sale of the product to Federal Government or non-Federal Government customers.

(2) EXCLUSIVE RESPONSIBILITY.—The Secretary will be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense in any product liability lawsuit for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3), have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such technology and will supply the Secretary with all such information.

(3) CERTIFICATE.—For anti-terrorism technology reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the anti-terrorism technology on an Approved Product List for Homeland Security.

(e) EXCLUSION.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 864. RISK MANAGEMENT.

(a) IN GENERAL.—

(1) LIABILITY INSURANCE REQUIRED.—Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to Federal and non-Federal government customers (''Seller'') shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section and certified by the Secretary to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(2) MAXIMUM AMOUNT.—For the total claims related to 1 such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.

(3) SCOPE OF COVERAGE.—Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against or response or recovery from an act of terrorism:

(A) contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) contractors, subcontractors, suppliers, and vendors of the customer.

(4) THIRD PARTY CLAIMS.—Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

(b) RECIPROCAL WAIVER OF CLAIMS.—The Seller shall enter into a reciprocal waiver of claims with its contractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(c) EXTENT OF LIABILITY.—Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

SEC. 865. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) QUALIFIED ANTI-TERRORISM TECHNOLOGY.—For purposes of this subtitle, the term ''qualified anti-terrorism technology'' means any product, equipment, service (including support services), device, or technology (including information technology) designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

(2) ACT OF TERRORISM.—(A) The term ''act of terrorism'' means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and

(iii) uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

(3) INSURANCE CARRIER.—The term ''insurance carrier'' means any corporation, association, society, order, firm, company, mutual, partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(4) LIABILITY INSURANCE.—

(A) IN GENERAL.—The term ''liability insurance'' means insurance for legal liabilities incurred by the insured resulting from—

(i) loss of or damage to property of others;

(ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(iii) bodily injury (including) to persons other than the insured or its employees; or

(iv) loss resulting from debt or default of another.

(5) LOSS.—The term ''loss'' means death, bodily injury, or loss of or damage to property, including business interruption loss.

(6) NON-FEDERAL GOVERNMENT CUSTOMERS.—The term ''non-Federal Government customers'' means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85-804 to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

Subtitle H—Miscellaneous Provisions

SEC. 871. ADVISORY COMMITTEES.

(a) IN GENERAL.—The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92–463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

(b) TERMINATION.—Any advisory committee established by the Secretary shall terminate 2 years after the date of its establishment, unless the Secretary makes a written determination to extend the advisory committee to a specified date, which shall not be more than 2 years after the date on which such determination is made. The Secretary may make any number of subsequent extensions consistent with this subsection.

SEC. 872. REORGANIZATION.

(a) REORGANIZATION.—The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

(1) pursuant to section 1502(b); or

(2) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

(b) LIMITATIONS.—

(1) IN GENERAL.—Authority under subsection (a)(1) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this Act.

(2) ABOLITIONS.—Authority under subsection (a)(2) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

SEC. 873. USE OF APPROPRIATED FUNDS.

(a) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(c) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SEC. 874. FUTURE YEAR HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

SEC. 875. MISCELLANEOUS AUTHORITIES.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 876. MILITARY ACTIVITIES.

Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.

SEC. 877. REGULATORY AUTHORITY AND PREEMPTION.

(a) REGULATORY AUTHORITY.—Except as otherwise provided in sections 306(c), 862(c), and 1706(b), this Act vests no new regulatory authority in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act may not be construed as altering or diminishing the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

(b) PREEMPTION OF STATE OR LOCAL LAW.—Except as otherwise provided in this Act, this Act preempts no State or local law, except that any authority to preempt State or local law vested in any Federal agency or official transferred to the Department pursuant to this Act shall be transferred to the Department effective on the date of the transfer to the Department of that Federal agency or official.

SEC. 878. COUNTERNARCOTICS OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department and between the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism. Such official shall—

(1) ensure the adequacy of resources within the Department for illicit drug interdiction; and

(2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy.

SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of International Affairs. The Office shall be headed by a Director, who shall be a senior official appointed by the Secretary.

(b) DUTIES OF THE DIRECTOR.—The Director shall have the following duties:

(1) To promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security. Such exchange shall include the following:

(A) Exchange of information on research and development on homeland security technologies.

(B) Joint training exercises of first responders.

(C) Exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange where the United States has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage international activities within the Department in coordination with other Federal officials with responsibility for counter-terrorism matters.

SEC. 880. PROHIBITION OF THE TERRORISM INFORMATION AND PREVENTION SYSTEM.

Any and all activities of the Federal Government to implement the proposed component program of the Citizen Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited.

SEC. 881. REVIEW OF PAY AND BENEFIT PLANS.

Notwithstanding any other provision of this Act, the Secretary shall, in consultation with the Director of the Office of Personnel Management, review the pay and benefit plans of each agency whose functions are transferred under this Act to the Department and, within 90 days after the date of enactment, submit a plan to the President of the Senate and the Speaker of the House of Representatives and the appropriate committees and subcommittees of Congress, for ensuring, to the maximum extent practicable, the elimination of disparities in pay and benefits throughout the Department, especially among law enforcement personnel, that are inconsistent with merit system principles set forth in section 2301 of title 5, United States Code.

SEC. 882. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia,

and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 883. REQUIREMENT TO COMPLY WITH LAWS PROTECTING EQUAL EMPLOYMENT OPPORTUNITY AND PROVIDING WHISTLEBLOWER PROTECTIONS.

Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—

(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Pub. L. 107–174)); or

(2) to provide whistleblower protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) and (9) of such title and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002).

SEC. 884. FEDERAL LAW ENFORCEMENT TRAINING CENTER.

(a) IN GENERAL.—The transfer of an authority or an agency under this Act to the Department of Homeland Security does not affect training agreements already entered into with the Federal Law Enforcement Training Center with respect to the training of personnel to carry out that authority or the duties of that transferred agency.

(b) CONTINUITY OF OPERATIONS.—All activities of the Federal Law Enforcement Training Center transferred to the Department of Homeland Security under this Act shall continue to be carried out at the locations such activities were carried out before such transfer.

SEC. 885. JOINT INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) STRUCTURE.—It is the sense of Congress that the Secretary should model the Joint Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida and Alameda, California, to the maximum extent feasible and appropriate.

SEC. 886. SENSE OF CONGRESS REAFFIRMING THE CONTINUED IMPORTANCE AND APPLICABILITY OF THE POSSE COMITATUS ACT.

(a) FINDINGS.—Congress finds the following:

(1) Section 1385 of title 18, United States Code (commonly known as the ''Posse Comitatus Act''), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.

(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.

(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law.

(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.

(5) Existing laws, including chapter 15 of title 10, United States Code (commonly known as the ''Insurrection Act''), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.

(b) SENSE OF CONGRESS.—Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of Congress that nothing in this Act should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

SEC. 887. 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 Department shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term ''non-homeland security missions'' means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term ''homeland security missions'' means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Coast Guard to perform its missions shall be maintained intact and without significant reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(d) CERTAIN TRANSFERS PROHIBITED.—No mission, function, or asset (including for purposes of this subsection any ship, aircraft, or helicopter) of the Coast Guard may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the Coast Guard's capability to perform its missions.

(e) CHANGES TO MISSIONS.—

(1) PROHIBITION.—The Secretary may not substantially or significantly reduce the missions of the Coast Guard or the Coast Guard's capability to perform those missions, except as specified in subsequent Acts.

(2) WAIVER.—The Secretary may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling, and immediate need exists for 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 if the restrictions under paragraph (1) are not waived.

(f) ANNUAL REVIEW.—

(1) 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.

(2) REPORT.—The report under this paragraph shall be submitted to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

(i) REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.—Not 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, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SEC. 889. HOMELAND SECURITY FUNDING ANALYSIS IN PRESIDENT'S BUDGET.

(a) IN GENERAL.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

''(33)(A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

''(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

''(II) an estimate of the current service levels of homeland security spending;

''(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

''(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

''(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

''(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

''(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 'Annual Report to Congress on Combatting Terrorism', the term 'homeland security' refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

''(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.''.

(b) REPEAL OF DUPLICATIVE REPORTS.—The following sections are repealed:

(1) Section 1051 of Public Law 105–85.

(2) Section 1403 of Public Law 105–261.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2005 budget submission.

SEC. 890. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in section 408 by striking the last sentence of subsection (c); and

(2) in section 402 by striking paragraph (1) and inserting the following:

''(1) AIR CARRIER.—The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.''.

Subtitle I—Information Sharing

SEC. 891. SHORT TITLE; FINDINGS; AND SENSE OF CONGRESS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Homeland Security Information Sharing Act''.

(b) FINDINGS.—Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(c) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 892. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include 1 or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term ''homeland security information'' means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''State and local personnel'' means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term ''State'' includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 893. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 892. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 892, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 894. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 892.

SEC. 895. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting ''or of a foreign government'' after ''(including personnel of a state or subdivision of a state'';

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: ''or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation'';

(ii) in subclause (IV)—

(I) by inserting ''or foreign'' after ''may disclose a violation of State'';

(II) by inserting ''or of a foreign government'' after ''to an appropriate official of a State or subdivision of a State''; and

(III) by striking ''or'' at the end;

(iii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iv) by adding at the end the following:

''(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(C) in subparagraph (C)(iii)—

(i) by striking ''Federal'';

(ii) by inserting ''or clause (i)(VI)'' after ''clause (i)(V)''; and

(iii) by adding at the end the following: ''Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 896. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

''(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

''(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 897. FOREIGN INTELLIGENCE INFORMATION.

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law

107–56; 50 U.S.C. 403–5d) is amended by adding at the end the following: ''Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

(1) by striking ''section 2517(6)'' and inserting ''paragraphs (6) and (8) of section 2517 of title 18, United States Code,''; and

(2) by inserting ''and (VI)'' after ''Rule 6(e)(3)(C)(i)(V)''.

SEC. 898. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

SEC. 899. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

SEC. 901. NATIONAL HOMELAND SECURITY COUNCIL.

There is established within the Executive Office of the President a council to be known as the ''Homeland Security Council'' (in this title referred to as the ''Council'').

SEC. 902. FUNCTION.

The function of the Council shall be to advise the President on homeland security matters.

SEC. 903. MEMBERSHIP.

The members of the Council shall be the following:

(1) The President.

(2) The Vice President.

(3) The Secretary of Homeland Security.

(4) The Attorney General.

(5) The Secretary of Defense.

(6) Such other individuals as may be designated by the President.

SEC. 904. OTHER FUNCTIONS AND ACTIVITIES.

For the purpose of more effectively coordinating the policies and functions of the United States Government relating to homeland security, the Council shall—

(1) assess the objectives, commitments, and risks of the United States in the interest of homeland security and to make resulting recommendations to the President;

(2) oversee and review homeland security policies of the Federal Government and to make resulting recommendations to the President; and

(3) perform such other functions as the President may direct.

SEC. 905. STAFF COMPOSITION.

The Council shall have a staff, the head of which shall be a civilian Executive Secretary, who shall be appointed by the President. The President is authorized to fix the pay of the Executive Secretary at a rate not to exceed the rate of pay payable to the Executive Secretary of the National Security Council.

SEC. 906. RELATION TO THE NATIONAL SECURITY COUNCIL.

The President may convene joint meetings of the Homeland Security Council and the National Security Council with participation by members of either Council or as the President may otherwise direct.

TITLE X—INFORMATION SECURITY

SEC. 1001. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the ''Federal Information Security Management Act of 2002''.

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

''SUBCHAPTER II—INFORMATION SECURITY

''§ 3531. Purposes

''The purposes of this subchapter are to—

''(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

''(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

''(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

''(4) provide a mechanism for improved oversight of Federal agency information security programs;

''(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

''(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.''.

''§ 3532. Definitions

''(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

''(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

''(1) the term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

''(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

''(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

''(C) availability, which means ensuring timely and reliable access to and use of information; and

''(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

''(2) the term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, the function, operation, or use of which—

''(A) involves intelligence activities;

''(B) involves cryptologic activities related to national security;

''(C) involves command and control of military forces;

''(D) involves equipment that is an integral part of a weapon or weapons system; or

''(E) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);

''(3) the term 'information technology' has the meaning given that term in section 11101 of title 40; and

''(4) the term 'information system' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, and includes—

''(A) computers and computer networks;

''(B) ancillary equipment;

''(C) software, firmware, and related procedures;

''(D) services, including support services; and

''(E) related resources.''.

''§ 3533. Authority and functions of the Director

''(a) The Director shall oversee agency information security policies and practices, by—

''(1) promulgating information security standards under section 11331 of title 40;

''(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

''(3) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(A) information collected or maintained by or on behalf of an agency; or

''(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(4) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

''(5) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303(b)(5) of title 40, to enforce accountability for compliance with such requirements;

''(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

''(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

''(8) reporting to Congress no later than March 1 of each year on agency compliance

with the requirements of this subchapter, including—

''(A) a summary of the findings of evaluations required by section 3535;

''(B) significant deficiencies in agency information security practices;

''(C) planned remedial action to address such deficiencies; and

''(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(9) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).''.

''(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

''§ 3534. Federal agency responsibilities

''(a) The head of each agency shall—

''(1) be responsible for—

''(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(i) information collected or maintained by or on behalf of the agency; and

''(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

''(i) information security standards promulgated by the Director under section 11331 of title 40; and

''(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

''(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

''(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

''(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

''(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40 for information security classifications and related requirements;

''(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

''(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

''(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

''(A) designating a senior agency information security officer who shall—

''(i) carry out the Chief Information Officer's responsibilities under this section;

''(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

''(iii) have information security duties as that official's primary duty; and

''(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

''(B) developing and maintaining an agencywide information security program as required by subsection (b);

''(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

''(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

''(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

''(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

''(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

''(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

''(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

''(2) policies and procedures that—

''(A) are based on the risk assessments required by paragraph (1);

''(B) cost-effectively reduce information security risks to an acceptable level;

''(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

''(D) ensure compliance with—

''(i) the requirements of this subchapter;

''(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

''(iii) minimally acceptable system configuration requirements, as determined by the agency; and

''(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

''(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

''(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

''(A) information security risks associated with their activities; and

''(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

''(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

''(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

''(B) may include testing relied on in a evaluation under section 3535;

''(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

''(7) procedures for detecting, reporting, and responding to security incidents, including—

''(A) mitigating risks associated with such incidents before substantial damage is done; and

''(B) notifying and consulting with, as appropriate—

''(i) law enforcement agencies and relevant Offices of Inspector General;

''(ii) an office designated by the President for any incident involving a national security system; and

''(iii) any other agency or office, in accordance with law or as directed by the President; and

''(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

''(c) Each agency shall—

''(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

''(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

''(A) annual agency budgets;

''(B) information resources management under subchapter 1 of this chapter;

''(C) information technology management under subtitle III of title 40;

''(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

''(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

''(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

''(G) internal accounting and administrative controls under section 3512 of title 31, United States Code, (known as the 'Federal Managers Financial Integrity Act'); and

''(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

''(A) as a material weakness in reporting under section 3512 of title 31; and

''(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

''(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

''(A) the time periods, and

''(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

''(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

''(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

''§ 3535. Annual independent evaluation

''(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

''(2) Each evaluation by an agency under this section shall include—

''(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

''(B) an assessment (made on the basis of the results of the testing) of compliance with—

''(i) the requirements of this subchapter; and

''(ii) related information security policies, procedures, standards, and guidelines; and

''(C) separate presentations, as appropriate, regarding information security relating to national security systems.

''(b) Subject to subsection (c)—

''(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

''(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

''(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

''(1) only by an entity designated by the agency head; and

''(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(d) The evaluation required by this section—

''(1) shall be performed in accordance with generally accepted government auditing standards; and

''(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

''(e) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

''(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

''(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

''(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

''(h) The Comptroller General shall periodically evaluate and report to Congress on—

''(1) the adequacy and effectiveness of agency information security policies and practices; and

''(2) implementation of the requirements of this subchapter.

''§ 3536. National security systems

''The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

''(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

''(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

''(3) complies with the requirements of this subchapter.

''§ 3537. Authorization of appropriations

''There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

''§ 3538. Effect on existing law

''Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to Congress or the Comptroller General of the United States.''.

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading ''SUBCHAPTER II'' are amended to read as follows:

''3531. Purposes.
''3532. Definitions.
''3533. Authority and functions of the Director.
''3534. Federal agency responsibilities.
''3535. Annual independent evaluation.
''3536. National security systems.
''3537. Authorization of appropriations.
''3538. Effect on existing law.''.

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(3) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection 2224(b), by striking ''(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)'' and inserting ''(b) OBJECTIVES OF THE PROGRAM.—'';

(ii) in subsection 2224(b), by striking ''(2) the program shall at a minimum meet the requirements of section 3534 and 3535 of title 44, United States Code.''; and

(iii) in subsection 2224(c), by inserting '', including through compliance with subtitle II of chapter 35 of title 44'' after ''infrastructure''.

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted Data or Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 1002. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Section 11331 of title 40, United States Code, is amended to read as follows:

''§ 11331. Responsibilities for Federal information systems standards

''(a) DEFINITION.—In this section, the term 'information security' has the meaning given that term in section 3532(b)(1) of title 44.

''(b) REQUIREMENT TO PRESCRIBE STANDARDS.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

''(B) REQUIRED STANDARDS.—Standards promulgated under subparagraph (A) shall include—

''(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

''(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

''(C) REQUIRED STANDARDS BINDING.—Information security standards described under subparagraph (B) shall be compulsory and binding.

''(2) STANDARDS AND GUIDELINES FOR NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems, as defined under section 3532(3) of title 44, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

''(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

''(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

''(2) are otherwise consistent with policies and guidelines issued under section 3533 of title 44.

''(d) REQUIREMENTS REGARDING DECISIONS BY DIRECTOR.—

''(1) DEADLINE.—The decision regarding the promulgation of any standard by the Director under subsection (b) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

''(2) NOTICE AND COMMENT.—A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, is amended by striking the item relating to section 11331 and inserting the following:

''11331. Responsibilities for Federal information systems standards.''.

SEC. 1003. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

''(a) The Institute shall—

''(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

''(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code);

''(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems; and

''(4) carry out the responsibilities described in paragraph (3) through the Computer Security Division.

''(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

''(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

''(B) guidelines recommending the types of information and information systems to be included in each such category; and

''(C) minimum information security requirements for information and information systems in each such category;

''(2) a definition of and guidelines concerning detection and handling of information security incidents; and

''(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

''(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

''(1) consult with other agencies and offices (including, but not limited to, the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

''(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

''(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

''(2) provide the public with an opportunity to comment on proposed standards and guidelines;

''(3) submit to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code—

''(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

''(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

''(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this Act;

''(5) ensure that such standards and guidelines do not require specific technological solutions or products, including any specific hardware or software security solutions;

''(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

''(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.

''(d) The Institute shall—

''(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code;

''(2) provide assistance to agencies regarding—

''(A) compliance with the standards and guidelines developed under subsection (a);

''(B) detecting and handling information security incidents; and

''(C) information security policies, procedures, and practices;

''(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

''(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

''(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

''(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

''(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

''(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

''(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

''(e) As used in this section—

''(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

''(2) the term 'information security' has the same meaning as provided in section 3532(1) of such title;

''(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

''(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

''(5) the term 'national security system' has the same meaning as provided in section 3532(b)(2) of such title.''.

SEC. 1004. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), is amended—

(1) in subsection (a), by striking ''Computer System Security and Privacy Advisory Board'' and inserting ''Information Security and Privacy Advisory Board'';

(2) in subsection (a)(1), by striking ''computer or telecommunications'' and inserting ''information technology'';

(3) in subsection (a)(2)—

(A) by striking ''computer or telecommunications technology'' and inserting ''information technology''; and

(B) by striking ''computer or telecommunications equipment'' and inserting ''information technology'';

(4) in subsection (a)(3)—

(A) by striking ''computer systems'' and inserting ''information system''; and

(B) by striking ''computer systems security'' and inserting ''information security'';

(5) in subsection (b)(1) by striking ''computer systems security'' and inserting ''information security'';

(6) in subsection (b) by striking paragraph (2) and inserting the following:

''(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and'';

(7) in subsection (b)(3) by inserting ''annually'' after ''report'';

(8) by inserting after subsection (e) the following new subsection:

''(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

''(h) As used in this section, the terms ''information system'' and ''information technology'' have the meanings given in section 20.''.

SEC. 1005. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FEDERAL COMPUTER SYSTEM SECURITY TRAINING AND PLAN.—

(1) REPEAL.—Section 11332 of title 40, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, as amended by striking the item relating to section 11332.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking subtitle G of title X (44 U.S.C. 3531 note).

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''sections 11331 and 11332(b) and (c) of title 40'' and inserting ''section 11331 of title 40 and subchapter II of this title''; and

(ii) by striking the semicolon and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end the following:

''(c) INVENTORY OF INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

''(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

''(3) Such inventory shall be—

''(A) updated at least annually;

''(B) made available to the Comptroller General; and

''(C) used to support information resources management, including—

''(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

''(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

''(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

''(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

''(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

''(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.''.

(3) Section 3506(g) of such title is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''section 11332 of title 40'' and inserting ''subchapter II of this chapter''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

SEC. 1006. CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)).

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

SEC. 1101. LEGAL STATUS OF EOIR.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1102.

SEC. 1102. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

''POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL'';

(2) in subsection (a)—

(A) by inserting ''Attorney General,'' after ''President,''; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

''(g) ATTORNEY GENERAL.—

''(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

''(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. 1103. 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 1102, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice

SEC. 1111. BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice under the general authority of the Attorney General the Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this section referred to as the ''Bureau'').

(2) DIRECTOR.—There shall be at the head of the Bureau a Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this subtitle referred to as the ''Director''). The Director shall be appointed by the Attorney General and shall perform such functions as the Attorney General shall direct. The Director shall receive compensation at the rate prescribed by law under section 5314 of title V, United States Code, for positions at level III of the Executive Schedule.

(3) COORDINATION.—The Attorney General, acting through the Director and such other officials of the Department of Justice as the Attorney General may designate, shall provide for the coordination of all firearms, explosives, tobacco enforcement, and arson enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among any officer, employee, or agency of the Department of Justice involved in the performance of these and related functions.

(4) PERFORMANCE OF TRANSFERRED FUNCTIONS.—The Attorney General may make such provisions as the Attorney General determines appropriate to authorize the performance by any officer, employee, or agency of the Department of Justice of any function transferred to the Attorney General under this section.

(b) RESPONSIBILITIES.—Subject to the direction of the Attorney General, the Bureau shall be responsible for investigating—

(1) criminal and regulatory violations of the Federal firearms, explosives, arson, alcohol, and tobacco smuggling laws;

(2) the functions transferred by subsection (c); and

(3) any other function related to the investigation of violent crime or domestic terrorism that is delegated to the Bureau by the Attorney General.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—Subject to paragraph (2), but notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

(2) ADMINISTRATION AND REVENUE COLLECTION FUNCTIONS.—There shall be retained within the Department of the Treasury the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms relating to the administration and enforcement of chapters 51 and 52 of the Internal Revenue Code of 1986, sections 4181 and 4182 of the Internal Revenue Code of 1986, and title 27, United States Code.

(3) BUILDING PROSPECTUS.—Prospectus PDC-98W10, giving the General Services Administration the authority for site acquisition, design, and construction of a new headquarters building for the Bureau of Alcohol, Tobacco and Firearms, is transferred, and deemed to apply, to the Bureau of Alcohol, Tobacco, Firearms, and Explosives established in the Department of Justice under subsection (a).

(d) TAX AND TRADE BUREAU.—

(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Tax and Trade Bureau.

(2) ADMINISTRATOR.—The Tax and Trade Bureau shall be headed by an Administrator, who shall perform such duties as assigned by the Under Secretary for Enforcement of the Department of the Treasury. The Administrator shall occupy a career-reserved position within the Senior Executive Service.

(3) RESPONSIBILITIES.—The authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms that are not transferred to the Department of Justice under this section shall be retained and administered by the Tax and Trade Bureau.

SEC. 1112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 8D(b)(1) by striking ''Bureau of Alcohol, Tobacco and Firearms'' and inserting ''Tax and Trade Bureau''; and

(2) in section 9(a)(1)(L)(i), by striking ''Bureau of Alcohol, Tobacco, and Firearms'' and inserting ''Tax and Trade Bureau''.

(b) Section 1109(c)(2)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (7 U.S.C. 1445-3(c)(2)(A)(i)) is amended by striking ''(on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms'' and inserting ''by manufacturers of tobacco products to the Tax and Trade Bureau''.

(c) Section 2(4)(J) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 8 U.S.C.A. 1701(4)(J)) is amended by striking ''Bureau of Alcohol, Tobacco, and Firearms'' and inserting ''Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''.

(d) Section 3(1)(E) of the Firefighters' Safety Study Act (15 U.S.C. 2223b(1)(E)) is amended by striking ''the Bureau of Alcohol, Tobacco, and Firearms,'' and inserting ''the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,''.

(e) Chapter 40 of title 18, United States Code, is amended—

(1) by striking section 841(k) and inserting the following:

''(k) 'Attorney General' means the Attorney General of the United States.'';

(2) in section 846(a), by striking ''the Attorney General and the Federal Bureau of Investigation, together with the Secretary'' and inserting ''the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives''; and

(3) by striking ''Secretary'' each place it appears and inserting ''Attorney General''.

(f) Chapter 44 of title 18, United States Code, is amended—

(1) in section 921(a)(4)(B), by striking ''Secretary'' and inserting ''Attorney General'';

(2) in section 921(a)(4), by striking ''Secretary of the Treasury'' and inserting ''Attorney General'';

(3) in section 921(a), by striking paragraph (18) and inserting the following:

''(18) The term 'Attorney General' means the Attorney General of the United States'';

(4) in section 922(p)(5)(A), by striking ''after consultation with the Secretary'' and inserting ''after consultation with the Attorney General'';

(5) in section 923(l), by striking ''Secretary of the Treasury'' and inserting ''Attorney General''; and

(6) by striking ''Secretary'' each place it appears, except before ''of the Army'' in section 921(a)(4) and before ''of Defense'' in section 922(p)(5)(A), and inserting the term ''Attorney General''.

(g) Section 1261(a) of title 18, United States Code, is amended to read as follows:

''(a) The Attorney General—

''(1) shall enforce the provisions of this chapter; and

''(2) has the authority to issue regulations to carry out the provisions of this chapter.''.

(h) Section 1952(c) of title 18, United States Code, is amended by striking ''Secretary of the Treasury'' and inserting ''Attorney General''.

(i) Chapter 114 of title 18, United States Code, is amended—

(1) by striking section 2341(5), and inserting the following:

''(5) the term 'Attorney General' means the Attorney General of the United States''; and

(2) by striking ''Secretary'' each place it appears and inserting ''Attorney General''.

(j) Section 6103(i)(8)(A)(i) of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by striking ''or the Bureau of Alcohol, Tobacco and Firearms'' and inserting '', the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury,''.

(k) Section 7801(a) of the Internal Revenue Code of 1986 (relating to the authority of the Department of the Treasury) is amended—

(1) by striking ''SECRETARY.—Except'' and inserting ''SECRETARY.—

''(1) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(2) ADMINISTRATION AND ENFORCEMENT OF CERTAIN PROVISIONS BY ATTORNEY GENERAL.—

''(A) IN GENERAL.—The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term 'Secretary' or 'Secretary of the Treasury' shall, when applied to those provisions, mean the Attorney General; and the term 'internal revenue officer' shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives so designated by the Attorney General:

''(i) Chapter 53.

''(ii) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clause (i).

''(B) USE OF EXISTING RULINGS AND INTERPRETATIONS.—Nothing in this Act alters or repeals the rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002, which concern the provisions of this title referred to in subparagraph (A). The Attorney General shall consult with the Secretary to achieve uniformity and consistency in administering provisions under chapter 53 of title 26, United States Code.''.

(l) Section 2006(2) of title 28, United States Code, is amended by inserting '', the Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,'' after ''the Secretary of the Treasury''.

(m) Section 713 of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 713. Audit of Internal Revenue Service, Tax and Trade Bureau, and Bureau of Alcohol, Tobacco, Firearms, and Explosives'';

(2) in subsection (a), by striking ''Bureau of Alcohol, Tobacco, and Firearms,'' and inserting ''Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''; and

(3) in subsection (b)

(A) in paragraph (1)(B), by striking ''or the Bureau'' and inserting ''or either Bureau'';

(B) in paragraph (2)—

(i) by striking ''or the Bureau'' and inserting ''or either Bureau''; and

(ii) by striking ''and the Director of the Bureau'' and inserting ''the Tax and Trade Bureau, Department of the Treasury, and the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''; and

(C) in paragraph (3), by striking ''or the Bureau'' and inserting ''or either Bureau''.

(n) Section 9703 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii)(III), by inserting ''and'' after the semicolon;

(B) in clause (iv), by striking ''; and'' and inserting a period; and

(C) by striking clause (v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated by paragraph (3), by striking ''Bureau of Alcohol, Tobacco and Firearms'' and inserting ''Tax and Trade Bureau''.

(o) Section 609N(2)(L) of the Justice Assistance Act of 1984 (42 U.S.C. 10502(2)(L)) is amended by striking ''Bureau of Alcohol, Tobacco, and Firearms'' and inserting ''Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''.

(p) Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended—

(1) by striking ''Secretary of the Treasury'' each place it appears and inserting ''Attorney General''; and

(2) in subparagraph (3)(B), by striking ''Bureau of Alcohol, Tobacco and Firearms'' and inserting ''Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''.

(q) Section 80303 of title 49, United States Code, is amended—

(1) by inserting ''or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General'' after ''section 80304 of this title.''; and

(2) by inserting '', the Attorney General,'' after ''by the Secretary''.

(r) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking ''(b) and (c)'' and inserting ''(b), (c), and (d)'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c), the following:

''(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302 (a)(2) or (a)(5).''.

(s) Section 103 of the Gun Control Act of 1968 (Public Law 90–618; 82 Stat. 1226) is amended by striking ''Secretary of the Treasury'' and inserting ''Attorney General''.

SEC. 1113. POWERS OF AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

Chapter 203 of title 18, United States Code, is amended by adding the following:

''§ 3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives.

''(a) Special agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, as well as any other investigator or officer charged by the Attorney General with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

''(b) Any special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.

''(c)(1) Except as provided in paragraphs (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to—

''(A) the seizure, summary and judicial forfeiture, and condemnation of property;

''(B) the disposition of such property;

''(C) the remission or mitigation of such forfeiture; and

''(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable provision of law enforced or administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

''(2) For purposes of paragraph (1), duties that are imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Attorney General.

''(3) Notwithstanding any other provision of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.''.

SEC. 1114. EXPLOSIVES TRAINING AND RESEARCH FACILITY.

(a) ESTABLISHMENT.—There is established within the Bureau an Explosives Training and Research Facility at Fort AP Hill, Fredericksburg, Virginia.

(b) PURPOSE.—The facility established under subsection (a) shall be utilized to train Federal, State, and local law enforcement officers to—

(1) investigate bombings and explosions;

(2) properly handle, utilize, and dispose of explosive materials and devices;

(3) train canines on explosive detection; and

(4) conduct research on explosives.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to establish and maintain the facility established under subsection (a).

(2) AVAILABILITY OF FUNDS.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1115. PERSONNEL MANAGEMENT DEMONSTRATION PROJECT.

Notwithstanding any other provision of law, the Personnel Management Demonstration Project established under section 102 of title I of Division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Pub. L. 105–277; 122 Stat. 2681–585) shall be transferred to the Attorney General of the United States for continued use by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, and the Secretary of the Treasury for continued use by the Tax and Trade Bureau.

Subtitle C—Explosives

SEC. 1121. SHORT TITLE.

This subtitle may be referred to as the ''Safe Explosives Act''.

SEC. 1122. PERMITS FOR PURCHASERS OF EXPLOSIVES.

(a) DEFINITIONS.—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:

''(j) 'Permittee' means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter.''; and

(2) by adding at the end the following:

''(r) 'Alien' means any person who is not a citizen or national of the United States.

''(s) 'Responsible person' means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.''.

(b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking ''and'' at the end;

(2) by striking subsection (a)(3) and inserting the following:

''(3) other than a licensee or permittee knowingly—

''(A) to transport, ship, cause to be transported, or receive any explosive materials; or

''(B) to distribute explosive materials to any person other than a licensee or permittee; or

''(4) who is a holder of a limited permit—

''(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

''(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder.''; and

(3) by striking subsection (b) and inserting the following:

''(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

''(1) a licensee;

''(2) a holder of a user permit; or

''(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.''.

(c) LICENSES AND USER PERMITS.—Section 843(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting ''or limited permit'' after ''user permit''; and

(B) by inserting before the period at the end the following: '', including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person'';

(2) in the second sentence, by striking ''$200 for each'' and inserting ''$50 for a limited permit and $200 for any other''; and

(3) by striking the third sentence and inserting ''Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.''.

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 842(i);'';

(2) in paragraph (4)—

(A) by inserting ''(A) the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary determines appropriate, that'' before ''the applicant''; and

(B) by adding at the end the following:

''(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and'';

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 842(i); and

''(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.''.

(e) APPLICATION APPROVAL.—Section 843(c) of title 18, United States Code, is amended by striking ''forty-five days'' and inserting ''90 days for licenses and permits,''.

(f) INSPECTION AUTHORITY.—Section 843(f) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking ''permittees'' and inserting ''holders of user permits''; and

(B) by inserting ''licensees and permittees'' before ''shall submit'';

(2) in the second sentence, by striking ''permittee'' the first time it appears and inserting ''holder of a user permit''; and

(3) by adding at the end the following: ''The Secretary may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).

(g) POSTING OF PERMITS.—Section 843(g) of title 18, United States Code, is amended by inserting ''user'' before ''permits''.

(h) BACKGROUND CHECKS; CLEARANCES.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

''(h)(1) If the Secretary receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

''(2)(A) If the Secretary determines that the responsible person or the employee is not one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

''(B) If the Secretary determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

''(i) confirms the determination;

''(ii) explains the grounds for the determination;

''(iii) provides information on how the disability may be relieved; and

''(iv) explains how the determination may be appealed.''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) EXCEPTION.—Notwithstanding any provision of this Act, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

SEC. 1123. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) DISTRIBUTION OF EXPLOSIVES.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking ''or'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''or who has been committed to a mental institution;''; and

(3) by adding at the end the following:

''(7) is an alien, other than an alien who—

''(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act); or

''(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

''(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

''(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

''(8) has been discharged from the armed forces under dishonorable conditions;

''(9) having been a citizen of the United States, has renounced the citizenship of that person.''.

(b) POSSESSION OF EXPLOSIVE MATERIALS.—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking ''or'' at the end; and

(2) by inserting after paragraph (4) the following:

''(5) who is an alien, other than an alien who—

''(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

''(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

''(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

''(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

''(6) who has been discharged from the armed forces under dishonorable conditions;

''(7) who, having been a citizen of the United States, has renounced the citizenship of that person''; and

(3) by inserting ''or affecting'' before ''interstate'' each place that term appears.

SEC. 1124. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''(i) FURNISHING OF SAMPLES.—

''(1) IN GENERAL.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

''(A) samples of such explosive materials or ammonium nitrate;

''(B) information on chemical composition of those products; and

''(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

''(2) REIMBURSEMENT.—The Secretary shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.''.

SEC. 1125. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word ''shall'' the following: ''or any institution or organization receiving Federal financial assistance,''.

SEC. 1126. RELIEF FROM DISABILITIES.

Section 845(b) of title 18, United States Code, is amended to read as follows:

''(b)(1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 842(i) may apply to the Secretary for relief from such prohibition.

''(2) The Secretary may grant the relief requested under paragraph (1) if the Secretary determines that the circumstances regarding the applicability of section 842(i), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

''(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under the license or permit pending final action on an application for relief filed pursuant to this section.''.

SEC. 1127. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(p) THEFT REPORTING REQUIREMENT.—

''(1) IN GENERAL.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

''(2) PENALTY.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than $10,000, imprisoned not more than 5 years, or both.''.

SEC. 1128. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this subtitle and the amendments made by this subtitle.

TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

SEC. 1201. AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.

Section 44303 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Secretary of Transportation'';

(2) by moving the text of paragraph (2) of section 201(b) of the Air Transportation Safety and System Stabilization Act (115 Stat. 235) to the end and redesignating such paragraph as subsection (b);

(3) in subsection (b) (as so redesignated)—

(A) by striking the subsection heading and inserting ''AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—'';

(B) in the first sentence by striking ''the 180-day period following the date of enactment of this Act, the Secretary of Transportation'' and inserting ''the period beginning on September 22, 2001, and ending on December 31, 2003, the Secretary''; and

(C) in the last sentence by striking ''this paragraph'' and inserting ''this subsection''.

SEC. 1202. EXTENSION OF INSURANCE POLICIES.

Section 44302 of title 49, United States Code, is amended by adding at the end the following:

''(f) EXTENSION OF POLICIES.—

''(1) IN GENERAL.—The Secretary shall extend through August 31, 2003, and may extend through December 31, 2003, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

''(2) SPECIAL RULES.—Notwithstanding paragraph (1)—

''(A) in no event shall the total premium paid by the air carrier for the policy, as amended, be more than twice the premium that the air carrier was paying to the Department of Transportation for its third party policy as of June 19, 2002; and

''(B) the coverage in such policy shall begin with the first dollar of any covered loss that is incurred.''.

SEC. 1203. CORRECTION OF REFERENCE.

Effective November 19, 2001, section 147 of the Aviation and Transportation Security Act (Public Law 107–71) is amended by striking ''(b)'' and inserting ''(c)''.

SEC. 1204. REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) evaluates the availability and cost of commercial war risk insurance for air carriers and other aviation entities for passengers and third parties;

(B) analyzes the economic effect upon air carriers and other aviation entities of available commercial war risk insurance; and

(C) describes the manner in which the Department could provide an alternative means of providing aviation war risk reinsurance covering passengers, crew, and third parties through use of a risk-retention group or by other means.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Subtitle A—Chief Human Capital Officers

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Chief Human Capital Officers Act of 2002''.

SEC. 1302. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

''Sec.
''1401. Establishment of agency Chief Human Capital Officers.
''1402. Authority and functions of agency Chief Human Capital Officers.

''§ 1401. Establishment of agency Chief Human Capital Officers

''The head of each agency referred to under 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) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

''(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

''§ 1402. Authority and functions of agency Chief Human Capital Officers

''(a) The functions of each Chief Human Capital Officer shall include—

''(1) setting 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.

''(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

''(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

''(A) are the property of the agency or are available to the agency; and

''(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

''(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''14. Agency Chief Human Capital Officers ..... 1401''.

SEC. 1303. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 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. 1304. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

''(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

''(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

''(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

''(ii) integrating those strategies into the budget and strategic plans of those agencies;

''(B) closing skill gaps in mission critical occupations;

''(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

''(D) sustaining a culture that cultivates and develops a high performing workforce;

''(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

''(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.''.

SEC. 1305. EFFECTIVE DATE.

This subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B—Reforms Relating to Federal Human Capital Management

SEC. 1311. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

''(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).''.

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' after the 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. 1312. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period and inserting ''; and''; and

(C) by adding at the end of the following:

''(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

''(A) public notice has been given; and

''(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.''; and

(2) by inserting after section 3318 the following:

''§ 3319. Alternative ranking and selection procedures

''(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

''(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

''(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

''(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

''(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

''(1) the number of employees hired under that system;

''(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

''(3) the way in which managers were trained in the administration of that system.

''(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

''3319. Alternative ranking and selection procedures.''.

SEC. 1313. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I 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 105; 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. 590h(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 who—

''(I) 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 relocation bonus was or is to be paid under section 5753; 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 5754.

''§ 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 proposed organizational chart for the agency once 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;

''(4) the number and amounts of voluntary separation incentive payments to be offered; and

''(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 an may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive 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 only as 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 be entitled to receive under section 5595(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;

''(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another 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) in subsection (b) includes employment under a personal services 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 any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

''(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may waive the repayment if—

''(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

''(B) in case of an emergency involving a direct threat to life or property, the individual—

''(i) has skills directly related to resolving the emergency; and

''(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

''(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

''(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

''§ 3525. Regulations

''The Office of Personnel Management may prescribe regulations to carry out this subchapter.''.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

''CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT'';

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

''SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

''3521. Definitions.

''3522. Agency plans; approval.

''3523. Authority to provide voluntary separation incentive payments.

''3524. Effect of subsequent employment with the Government.

''3525. Regulations.''.

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

''(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

''(B) is serving under an appointment that is not time limited;

''(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

''(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

''(i) 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 (or shaping);

''(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (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

''(E) 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;''.

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

''(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

''(ii) is serving under an appointment that is not time limited;

''(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

''(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

''(I) 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 (or shaping);

''(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (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

''(v) 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 subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 State. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental 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 implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 1314. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking

''and a member of a uniformed service'' and inserting '', a member of a uniformed service, and a student who provides voluntary services under section 3111''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking ''chapter 81 of this title'' and inserting ''section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81''.

Subtitle C—Reforms Relating to the Senior Executive Service

SEC. 1321. 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) in the table of sections 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;

(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);

(3) in section 7701(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(h)(1), by striking ''for failure to be recertified as a senior executive under section 3393a or''; and

(B) in section 8339(h), in the first sentence, by striking '', except that such reduction shall not apply in the case of an employee retiring under section 8336(h) 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 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age''.

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) 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 enacted.

(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 section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 1322. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

(a) IN GENERAL.—Section 5307 of title 5, United States Code, is amended by adding at the end the following:

''(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting 'the total annual compensation payable to the Vice President under section 104 of title 3' for 'the annual rate of basic pay payable for level I of the Executive Schedule' in the case of any employee who—

''(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

''(B) holds a position in or under an agency which is described in paragraph (2).

''(2) An agency described in this paragraph is any agency which, for purposes of the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance.

''(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

''(B) An agency's certification under this subsection shall be for a period of 2 calendar years, except that such certification may be terminated at any time, for purposes of either or both of those years, upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

''(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

''(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).''.

(b) CONFORMING AMENDMENTS.—(1) Section 5307(a) of title 5, United States Code, is amended by inserting ''or as otherwise provided under subsection (d),'' after ''under law,''.

(2) Section 5307(c) of such title is amended by striking ''this section,'' and inserting ''this section (subject to subsection (d)),''.

Subtitle D—Academic Training

SEC. 1331. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE 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 and assign an employee to academic degree training 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, systemic, 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 shall—

''(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 appropriately 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 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, policy-making 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. 1332. 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 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), 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 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 (i); 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 upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of

study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and''.

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Arming Pilots Against Terrorism Act''.

SEC. 1402. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44921. Federal flight deck officer program

''(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing passenger air transportation or intrastate passenger air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'.

''(b) PROCEDURAL REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

''(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

''(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

''(A) The type of firearm to be used by a Federal flight deck officer.

''(B) The type of ammunition to be used by a Federal flight deck officer.

''(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

''(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

''(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

''(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

''(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

''(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

''(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

''(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

''(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

''(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

''(M) Any other issues that the Under Secretary considers necessary.

''(N) The Under Secretary's decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

''(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

''(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

''(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

''(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

''(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

''(1) IN GENERAL.—The Under Secretary shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

''(2) TRAINING.—

''(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

''(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

''(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

''(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

''(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

''(C) TRAINING IN USE OF FIREARMS.—

''(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

''(ii) CONDUCT OF TRAINING.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

''(iii) REQUALIFICATION.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Under Secretary.

''(d) DEPUTIZATION.—

''(1) IN GENERAL.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

''(2) QUALIFICATION.—A pilot is qualified to be a Federal flight deck officer under this section if—

''(A) the pilot is employed by an air carrier;

''(B) the Under Secretary determines (in the Under Secretary's discretion) that the pilot meets the standards established by the Under Secretary for being such an officer; and

''(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

''(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

''(4) REVOCATION.—The Under Secretary may, (in the Under Secretary's discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

''(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

''(f) AUTHORITY TO CARRY FIREARMS.—

''(1) IN GENERAL.—The Under Secretary shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

''(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State.

''(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

''(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

''(h) 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 a Federal flight deck officer's use of or failure to use a firearm.

''(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 officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

''(3) LIABILITY OF FEDERAL GOVERNMENT.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

''(i) PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.—If an accidental discharge of a

firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

''(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

''(2) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

''(j) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

''(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

''(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

''(k) APPLICABILITY.—

''(1) EXEMPTION.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

''(2) PILOT DEFINED.—The term 'pilot' means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command.''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

''44921. Federal flight deck officer program.''.

(2) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (Public Law 107–71) is repealed.

(c) FEDERAL AIR MARSHAL PROGRAM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the Federal air marshal program is critical to aviation security.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act, including any amendment made by this Act, shall be construed as preventing the Under Secretary of Transportation for Security from implementing and training Federal air marshals.

SEC. 1403. CREW TRAINING.

(a) IN GENERAL.—Section 44918(e) of title 49, United States Code, is amended—

(1) by striking ''The Administrator'' and inserting the following:

''(1) IN GENERAL.—The Under Secretary'';

(2) by adding at the end the following:

''(2) ADDITIONAL REQUIREMENTS.—In updating the training guidance, the Under Secretary, in consultation with the Administrator, shall issue a rule to—

''(A) require both classroom and effective hands-on situational training in the following elements of self defense:

''(i) recognizing suspicious activities and determining the seriousness of an occurrence;

''(ii) deterring a passenger who might present a problem;

''(iii) crew communication and coordination;

''(iv) the proper commands to give to passengers and attackers;

''(v) methods to subdue and restrain an attacker;

''(vi) use of available items aboard the aircraft for self-defense;

''(vii) appropriate and effective responses to defend oneself, including the use of force against an attacker;

''(viii) use of protective devices assigned to crew members (to the extent such devices are approved by the Administrator or Under Secretary);

''(ix) the psychology of terrorists to cope with their behavior and passenger responses to that behavior;

''(x) how to respond to aircraft maneuvers that may be authorized to defend against an act of criminal violence or air piracy;

''(B) require training in the proper conduct of a cabin search, including the duty time required to conduct the search;

''(C) establish the required number of hours of training and the qualifications for the training instructors;

''(D) establish the intervals, number of hours, and elements of recurrent training;

''(E) ensure that air carriers provide the initial training required by this paragraph within 24 months of the date of enactment of this subparagraph; and

''(F) ensure that no person is required to participate in any hands-on training activity that that person believes will have an adverse impact on his or her health or safety.

''(3) RESPONSIBILITY OF UNDER SECRETARY.—(A) CONSULTATION.—In developing the rule under paragraph (2), the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, and representatives of air carriers, the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

''(B) DESIGNATION OF OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

''(C) NECESSARY RESOURCES AND KNOWLEDGE.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge.''; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraphs (2) and (3) (as added by paragraph (2) of this section).

(b) ENHANCE SECURITY MEASURES.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by adding at the end the following:

''(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.''.

(c) BENEFITS AND RISKS OF PROVIDING FLIGHT ATTENDANTS WITH NONLETHAL WEAPONS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aide in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

SEC. 1404. COMMERCIAL AIRLINE SECURITY STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the following:

(1) The number of armed Federal law enforcement officers (other than Federal air marshals), who travel on commercial airliners annually and the frequency of their travel.

(2) The cost and resources necessary to provide such officers with supplemental training in aircraft anti-terrorism training that is comparable to the training that Federal air marshals are provided.

(3) The cost of establishing a program at a Federal law enforcement training center for the purpose of providing new Federal law enforcement recruits with standardized training comparable to the training that Federal air marshals are provided.

(4) The feasibility of implementing a certification program designed for the purpose of ensuring Federal law enforcement officers have completed the training described in paragraph (2) and track their travel over a 6-month period.

(5) The feasibility of staggering the flights of such officers to ensure the maximum amount of flights have a certified trained Federal officer on board.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study. The report may be submitted in classified and redacted form.

SEC. 1405. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

(a) IN GENERAL.—Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

''(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.''.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (1) by striking ''Secretary'' the first and third places it appears and inserting ''Under Secretary''; and

(2) in paragraph (2) by striking ''Secretary'' each place it appears and inserting ''Under Secretary''.

SEC. 1406. TECHNICAL AMENDMENTS.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsection (i) (relating to short-term assessment and deployment of emerging security technologies and procedures) as subsection (j);

(2) by redesignating the second subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons) as subsection (i); and

(3) by redesignating the third subsection (h) (relating to limitation on liability for acts to thwart criminal violence for aircraft piracy) as subsection (k).

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

SEC. 1501. DEFINITIONS.

For purposes of this title:

(1) The term ''agency'' includes any entity, organizational unit, program, or function.

(2) The term ''transition period'' means the 12-month period beginning on the effective date of this Act.

SEC. 1502. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act.

(b) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Department pursuant to this Act that will not be transferred to the Department under the plan.

(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(6) Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.

(c) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

SEC. 1503. REVIEW OF CONGRESSIONAL COMMITTEE STRUCTURES.

It is the sense of Congress that each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department.

Subtitle B—Transitional Provisions

SEC. 1511. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may 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 executive agency may, on a reimbursable basis, provide services or detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act 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 was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(d) TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTIONS.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and in accordance with the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

(e) PROHIBITION ON USE OF TRANSPORTATION TRUST FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, no funds derived from the Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, or Harbor Maintenance Trust Fund, may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

(2) LIMITATION.—This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development.

SEC. 1512. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term ''completed administrative action'' includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) PENDING PROCEEDINGS.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) REFERENCES.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) EMPLOYMENT PROVISIONS.—(1) Notwithstanding the generality of the foregoing (including subsections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(f) STATUTORY REPORTING REQUIREMENTS.—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

SEC. 1513. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 1514. NATIONAL IDENTIFICATION SYSTEM NOT AUTHORIZED.

Nothing in this Act shall be construed to authorize the development of a national identification system or card.

SEC. 1515. CONTINUITY OF INSPECTOR GENERAL OVERSIGHT.

Notwithstanding the transfer of an agency to the Department pursuant to this Act, the Inspector General that exercised oversight of such agency prior to such transfer shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of such agency to the Department pursuant to this Act and the appointment of the Inspector General of the Department of Homeland Security in accordance with section 103(b).

SEC. 1516. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

SEC. 1517. REFERENCE.

With respect to any function transferred by or under this Act (including under a reorganization plan that becomes effective under section 1502) and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is so transferred.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANSPORTATION SECURITY

SEC. 1601. RETENTION OF SECURITY SENSITIVE INFORMATION AUTHORITY AT DEPARTMENT OF TRANSPORTATION.

(a) Section 40119 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''and the Administrator of the Federal Aviation Administration each'' after ''for Security''; and

(B) by striking ''criminal violence and aircraft piracy'' and inserting ''criminal violence, aircraft piracy, and terrorism and to ensure security''; and

(2) in subsection (b)(1)—

(A) by striking '', the Under Secretary'' and inserting ''and the establishment of a Department of Homeland Security, the Secretary of Transportation'';

(B) by striking ''carrying out'' and all that follows through ''if the Under Secretary'' and inserting ''ensuring security under this title if the Secretary of Transportation''; and

(C) in subparagraph (C) by striking ''the safety of passengers in transportation'' and inserting ''transportation safety''.

(b) Section 114 of title 49, United States Code, is amended by adding at the end the following:

''(s) NONDISCLOSURE OF SECURITY ACTIVITIES.—

''(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107–71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

''(A) be an unwarranted invasion of personal privacy;

''(B) reveal a trade secret or privileged or confidential commercial or financial information; or

''(C) be detrimental to the security of transportation.

''(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

''(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.''.

SEC. 1602. INCREASE IN CIVIL PENALTIES.

Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

''(8) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security shall be $10,000; except that the maximum civil penalty shall be $25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).''.

SEC. 1603. ALLOWING UNITED STATES CITIZENS AND UNITED STATES NATIONALS AS SCREENERS.

Section 44935(e)(2)(A)(ii) of title 49, United States Code, is amended by striking ''citizen of the United States'' and inserting ''citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))''.

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 1701. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95–452) is amended—

(1) by inserting ''Homeland Security,'' after ''Transportation,'' each place it appears; and

(2) by striking ''; and'' each place it appears in paragraph (1) and inserting '';'';

SEC. 1702. EXECUTIVE SCHEDULE.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting ''Secretary of Homeland Security.'' as a new item after ''Affairs.'';

(2) in section 5313, by inserting ''Deputy Secretary of Homeland Security.'' as a new item after ''Affairs.'';

(3) in section 5314, by inserting ''Under Secretaries, Department of Homeland Security.'', ''Director of the Bureau of Citizenship and Immigration Services.'' as new items after ''Affairs.'' the third place it appears;

(4) in section 5315, by inserting ''Assistant Secretaries, Department of Homeland Security.'', ''General Counsel, Department of Homeland Security.'', ''Officer for Civil Rights and Civil Liberties, Department of Homeland Security.'', ''Chief Financial Officer, Department of Homeland Security.'', ''Chief Information Officer, Department of Homeland Security.'', and ''Inspector General, Department of Homeland Security.'' as new items after ''Affairs.'' the first place it appears; and

(5) in section 5315, by striking ''Commissioner of Immigration and Naturalization, Department of Justice.''.

(b) SPECIAL EFFECTIVE DATE.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 1703. UNITED STATES SECRET SERVICE.

(a) IN GENERAL.—(1) The United States Code is amended in section 202 of title 3, and in section 3056 of title 18, by striking ''of the Treasury'', each place it appears and inserting ''of Homeland Security''.

(2) Section 208 of title 3, United States Code, is amended by striking ''of Treasury'' each place it appears and inserting ''of Homeland Security''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 1704. COAST GUARD.

(a) TITLE 14, U.S.C.—Title 14, United States Code, is amended in sections 1, 3, 53, 95, 145, 516, 666, 669, 673, 673a (as redesignated by subsection (e)(1)), 674, 687, and 688 by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(b) TITLE 10, U.S.C.—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888, 946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b), 1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731a(e), 16131(a), 16136(a), 16301(g), and 18501 by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(2) Section 801(1) of such title is amended by striking ''the General Counsel of the Department of Transportation'' and inserting ''an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security''.

(3) Section 983(d)(2)(B) of such title is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(4) Section 2665(b) of such title is amended by striking ''Department of Transportation'' and inserting ''Department in which the Coast Guard is operating''.

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking ''Secretaries of the Army, Air Force, and Transportation'' both places it appears and inserting ''Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security''; and

(B) in subsection (b), by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(6) Section 7361(b) of such title is amended in the subsection heading by striking ''TRANSPORTATION'' and inserting ''HOMELAND SECURITY''.

(7) Section 12522(c) of such title is amended in the subsection heading by striking ''TRANSPORTATION'' and inserting ''HOMELAND SECURITY''.

(c) TITLE 37, U.S.C.—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(d) TITLE 38, U.S.C.—Title 38, United States Code, is amended in sections 101(25)(d), 1560(a), 3002(5), 3011(a)(1)(A)(ii)(I), 3011(a)(1)(A)(ii)(II), 3011(a)(1)(B)(ii)(III), 3011(a)(1)(C)(iii)(II)(cc), 3012(b)(1)(A)(v), 3012(b)(1)(B)(ii)(V), 3018(b)(3)(B)(iv), 3018A(a)(3), 3018B(a)(1)(C), 3018B(a)(2)(C), 3018C(a)(5), 3020(m), 3035(b)(2), 3035(c), 3035(d), 3035(e), 3680A(g), and 6105(c) by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(e) OTHER DEFENSE-RELATED LAWS.—(1) Section 363 of Public Law 104–193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking ''of Transportation'' and inserting ''of Homeland Security''; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking ''of Transportation'' and inserting ''of Homeland Security''.

(2) Section 721(1) of Public Law 104–201 (10 U.S.C. 1073 note) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(3) Section 4463(a) of Public Law 102–484 (10 U.S.C. 1143a note) is amended by striking ''after consultation with the Secretary of Transportation''.

(4) Section 4466(h) of Public Law 102–484 (10 U.S.C. 1143 note) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(5) Section 542(d) of Public Law 103–337 (10 U.S.C. 1293 note) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(6) Section 740 of Public Law 106–181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(7) Section 1407(b)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security''.

(8) Section 2301(5)(D) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(5)(D)) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(9) Section 2307(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6677(a)) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(10) Section 1034(a) of Public Law 105–85 (21 U.S.C. 1505a(a)) is amended by striking ''of

Transportation'' and inserting ''of Homeland Security''.

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking ''of Transportation'' in the fourth paragraph and inserting ''of Homeland Security'';

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security'';

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security'';

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking ''Secretaries of Army, Navy, Air Force, or Transportation'' and inserting ''Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,''; and

(E) in section 15(e) (50 U.S.C. App. 465(e)), by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security''.

(f) TECHNICAL CORRECTION.—(1) Title 14, United States Code, is amended by redesignating section 673 (as added by section 309 of Public Law 104–324) as section 673a.

(2) The table of sections at the beginning of chapter 17 of such title is amended by redesignating the item relating to such section as section 673a.

(g) EFFECTIVE DATE.—The amendments made by this section (other than subsection (f)) shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 1705. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) IN GENERAL.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 42 U.S.C. 300hh–12) is amended—

(1) in subsection (a)(1)—

(A) by striking ''Secretary of Health and Human Services'' and inserting ''Secretary of Homeland Security'';

(B) by inserting ''the Secretary of Health and Human Services and'' between ''in coordination with'' and ''the Secretary of Veterans Affairs''; and

(C) by inserting ''of Health and Human Services'' after ''as are determined by the Secretary''; and

(2) in subsections (a)(2) and (b), by inserting ''of Health and Human Services'' after ''Secretary'' each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 1706. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO TITLE 40.—Section 581 of title 40, United States Code, is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by inserting ''and'' after the semicolon at the end of paragraph (1);

(B) by striking ''; and'' at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

(b) LAW ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Section 1315 of title 40, United States Code, is amended to read as follows:

''§ 1315. Law enforcement authority of Secretary of Homeland Security for protection of public property

''(a) IN GENERAL.—To the extent provided for by transfers made pursuant to the Homeland Security Act of 2002, the Secretary of Homeland Security (in this section referred to as the 'Secretary') shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

''(b) OFFICERS AND AGENTS.—

''(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

''(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

''(A) enforce Federal laws and regulations for the protection of persons and property;

''(B) carry firearms;

''(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

''(D) serve warrants and subpoenas issued under the authority of the United States; and

''(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.

''(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

''(c) REGULATIONS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

''(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

''(d) DETAILS.—

''(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

''(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

''(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

''(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

''(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, and local law enforcement agencies, with the consent of the agencies.

''(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

''(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

''(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

''(1) preclude or limit the authority of any Federal law enforcement agency; or

''(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator's custody and control.''.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate authority for the protection of specific buildings to another Federal agency where, in the Secretary's discretion, the Secretary determines it necessary for the protection of that building.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 40, United States Code, is amended by striking the item relating to section 1315 and inserting the following:

''1315. Law enforcement authority of Secretary of Homeland Security for protection of public property.''.

SEC. 1707. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—

(1) in section 114(l)(2)(B), by inserting ''for a period not to exceed 90 days'' after ''effective''; and

(2) in section 114(l)(2)(B), by inserting ''ratified or'' after ''unless''.

SEC. 1708. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 1709. COLLABORATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The second sentence of section 351A(e)(1) of the Public Health Service Act (42 U.S.C. 262A(e)(1)) is amended by striking ''consultation with'' and inserting ''collaboration with the Secretary of Homeland Security and''.

(b) DEPARTMENT OF AGRICULTURE.—The second sentence of section 212(e)(1) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401) is amended by striking ''consultation with'' and inserting ''collaboration with the Secretary of Homeland Security and''.

SEC. 1710. 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 chapters 203–213 of this title'' in subsection (d) and inserting ''duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)'';

(4) by striking ''chapter.'' in subsection (f) and inserting ''chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).''; and

(5) by adding at the end the following new subsection:

''(g) DEFINITIONS.—In this section—

''(1) the term 'safety' includes security; and

''(2) the term 'Secretary concerned' means—

''(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

''(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.''.

(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 that affects the safety of railroad 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 laws, regulations, and orders related to railroad security'' after ''safety'' in the first sentence;

(2) by inserting ''or security'' 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 security matters),''.

SEC. 1711. 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,''; and

(3) by adding at the end the following:

''(C) CONSULTATION.—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.''.

(b) PREEMPTION.—Section 5125 of that title is amended—

(1) by striking ''chapter or a regulation prescribed under this chapter'' in subsection (a)(1) and inserting ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security'';

(2) by striking ''chapter or a regulation prescribed under this chapter.'' in subsection (a)(2) and inserting ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.''; and

(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,''.

SEC. 1712. OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting ''homeland security,'' after ''national security,''; and

(2) in section 208(a)(1) (42 U.S.C. 6617(a)(1)), by inserting ''the Office of Homeland Security,'' after ''National Security Council,''.

SEC. 1713. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

Section 7902(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

''(13) The Under Secretary for Science and Technology of the Department of Homeland Security.

''(14) Other Federal officials the Council considers appropriate.''.

SEC. 1714. CLARIFICATION OF DEFINITION OF MANUFACTURER.

Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa–33(3)) is amended—

(1) in the first sentence, by striking ''under its label any vaccine set forth in the Vaccine Injury Table'' and inserting ''any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine''; and

(2) in the second sentence, by inserting ''including any component or ingredient of any such vaccine'' before the period.

SEC. 1715. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa–33(5)) is amended by adding at the end the following: ''For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine's product license application or product label.''.

SEC. 1716. CLARIFICATION OF DEFINITION OF VACCINE.

Section 2133 of the Public Health Service Act (42 U.S.C. 300aa–33) is amended by adding at the end the following:

''(7) The term 'vaccine' means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body's immune response to a disease or diseases and includes all components and ingredients listed in the vaccines's product license application and product label.''.

SEC. 1717. EFFECTIVE DATE.

The amendments made by sections 1714, 1715, and 1716 shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

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

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. OBEY. Mr. Speaker, reserving the right to object, I just want to make certain that my understanding is that the gentleman from Indiana (Mr. BURTON) is going to be recognized first on a reservation of objection. I just want to make certain that I will also be recognized under a reservation of objection.

The SPEAKER pro tempore. The gentleman is correct. Does the gentleman withdrawal his reservation?

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Texas?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, first of all, let me say that I certainly support establishing the Department of Homeland Security. If there is one thing we need to deal with the terrorists and the terrorist threat, it is to make sure that we have a streamlined approach to dealing with the threat. I believe that Tom Ridge, who I believe will be the Secretary of Homeland Security, and others in that Department will do an outstanding job once they get started. So I support very strongly the establishment of a homeland security department.

But the thing that bothers me, and the reason I came back to Washington today, to reserve the right to object, is because something was put into the bill that is wrong. I believe that it was put into the bill, because those who were asking that it be put into the bill were unaware of the ramifications of putting it into the bill. So under my reservation, I am going to go into the details of this, and it is going to take a little bit of time, but I think the education of my colleagues is extremely important when we are talking about the thousands and thousands of children in this country that have autism and how their families are struggling to cope with this problem without any help from those who may have caused the damage.

So let me start off by saying that when section 1714 to section 1717 were put into the bill at the last minute here in the House, and the gentleman from Texas, my good friend, was the author of this amendment, I was told that the committee of jurisdiction was notified about this amendment.

Well, according to the Rules of the House, the Committee on Government Reform and Oversight was the committee of jurisdiction. I am the chairman of that committee and I was not notified.

□ 1115

Had I been notified, I would have been down here on the floor debating it very stringently, because we have been studying this issue for 3 years. We have had thousands of pieces of correspondence from parents of children who have been damaged to the point where they cannot speak and cannot live a good life. We have had hearings involving scientists and doctors from all over the world about this subject, and we are the only committee to my knowledge in the Congress that has taken this kind of time and effort to research this problem. Yet, we were not notified about this and the ramifications of this amendment.

So what I did when the amendment was found out, and it was over in the Senate by that time because we had passed the homeland security bill, with my vote, in addition to those of my colleagues, I went over there to try to get this amendment out.

Well, I found that the only way you could get it out was to bring it back to the House and probably go to a conference committee and, as a result, the homeland security bill might be killed for this session, and we might be dragging this thing on through December. The majority leader in the Senate and the Speaker of the House did not want that to happen. Therefore, my request that we take this out was not accepted. Cloture was voted on, so they went directly to the bill.

So I sent out a Dear Colleague letter to all of the Senators. I want to go into some of that a little bit and the reasons why this is such an important issue.

In my letter to my colleagues in the Senate, I said, ''Scientists have concluded that there is no causal connection between mercury-containing thimerosal.'' That is an additive that is put into the vaccines that is going into our children. Most people do not know that mercury is being injected or has been injected into our children 25 or 30 times before they go to the first grade in school, and there is a cumulative effect of mercury in the brain. You get a little bit, and it keeps building up because of the fatty tissue in the brain. One shot of mercury may not hurt, with the thimerosal, but the cumulative effect, according to many scientists, does cause neurological damage, including autism.

But the fact is, in 2001 the respected Institute of Medicine concluded that a connection between thimerosal, the mercury-containing additive, and autism, while unproven, is biologically plausible. So they said they did not know; they did not know whether it would cause autism or not, but they said it was biologically plausible.

Researchers in the State of California concluded this year that there is no statistical explanation for the nearly 300 percent increases in cases of autism in that State. ''It is astounding to see a three-fold increase in autism with no explanation,'' said Dr. Robert Byrd, an epidemiologist who led the study. ''There are a number of things that need to be answered, and we need to rethink the possible causes of autism.''

If we look at this study, we will see here when we started about the late 1980s there was a dramatic increase in the amount of autism in California. That is when we started adding additional vaccines containing thimerosal, the mercury-based additive, preservative, to these vaccines.

Another fact: An internal HHS document produced to the Committee on Government Reform during our investigation into vaccine safety described what it referred to as a weak signal in its data link linking thimerosal to neurological disorders: ''Preliminary screening of ICD–9 codes for possible neurologic and renal conditions following exposures to vaccines containing thimerosal,'' that is the mercury, ''before 3 months of age showed a statistical association for the overall category of neurological development disorders and for two conditions within the category, speech delay and attention deficit disorder.''

Fact: If there were no concerns that scientific research would demonstrate a connection between thimerosal and autism, sections 1714 and 1717 would not have been tacked into the Homeland Security Act in the 11th hour without any debate, without anybody knowing about that.

Here is some more fiction. Sections 1714 to 1717 do not eliminate the right of vaccine-injured individuals to sue manufacturers of vaccines and their components. Proponents of these provisions have stated that once individuals have gone through the Vaccine Injury Compensation Program they can still choose to file a civil lawsuit.

That is false. The reason is, there is a 3-year statute of limitations. Most of these families did not even know about the program, so the 3 years passed and they could not get into it. Therefore, the only recourse they had was to file a suit, a class action suit. So we have thousands of families out there that cannot get into the program, the vaccine compensation program, when their kids have been damaged because the statute of limitations has expired. They are out there with nothing. Their houses are being sold, they are going bankrupt, they are spending all their money and hurting their lives trying to help their kids, and they cannot do it. My grandson is one of them.

Fact: ''Thimerosal has now been removed from all childhood vaccines and is no longer a concern.''

That is not true. It is in the flu vaccine they are giving to children. They may have taken it out in the last couple of weeks, but it has been in there. It is in the flu vaccine that we get here in the House.

There is a tremendous increase in the number of people that are having Alzheimer's disease, and there is a growing body of evidence in the world of science that one of the contributing factors is the mercury that we are putting into our bodies. They are putting it into adult vaccines still, including the flu vaccine that every Member of this body got this year that took it.

I talked to the doctor, the head of health here in the House. When I first talked to him about it 2 or 3 years ago, I said, did you know there is mercury in the vaccines we are getting for flu? He was not aware of it. What it says in the leaflet that we get is thimerosal. Who in the heck knows what thimerosal is. Well, 50 percent of it is mercury.

Relating to the argument that it has been removed from pediatric vaccines, the pharmaceutical companies that have already put vaccines out there that have thimerosal in it, it is still on the shelves in the doctors' offices. They may not be manufacturing more with Thimerosal in it, but the doctors that have it in their offices and the pharmacists that have it in their pharmacy are still dispensing it and it is still being used; so we are still injecting mercury into our kids in large quantities.

Because the FDA was painfully slow to seek the removal of thimerosal during the 1990s, millions of children across the country were exposed to this mercury-based additive, preservative, at a time when concerns about its health effects were emerging. The legal rights of these children should not be curtailed; yet, they were curtailed.

Now, I want to thank publicly, and here the Speaker is going to tell me I cannot do it, but I am going to go ahead anyhow, Senators SNOWE, CHAFFEE, and COLLINS on the Republican side of the aisle, along with a lot of our Democrat colleagues, who put pressure on the leadership in the Senate to make a concession saying that they would adjust this or take this provision out, at least in part.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The Chair appreciates the gentleman abiding by the rules of the House.

Mr. BURTON of Indiana. I will, Mr. Speaker. I am not going to do it again. I have gotten it down already.

But they went to the Senator, the Senator from Mississippi, TRENT LOTT, the majority leader, and said they were going to vote for an amendment to take a whole bunch of things out, including this provision, if they did not agree to take this out for retroactivity in a bill that will come up for corrections after the first of the year. I want to thank them personally for that.

Now, during the debate in the Senate, some of my colleagues, including some eminent doctors, said there was a Danish study that showed that thimerosal and mercury did not cause autism.

First of all, let me tell the Members that the Danes, Denmark, quit using thimerosal in 1992. Second, the study that they referred to had nothing to do with thimerosal. It had to do with the MMR vaccine. It had nothing to do with mercury. So my colleagues who are experts in the Senate that were talking about this Danish study did not read the darned thing. It had nothing to do with mercury.

I want to tell the Members about some people who have had some problems. I became interested in this, and I did not even know what autism was. I saw the movie Rain Man, and I did not know much about autism. I did not know what caused it. But I knew that, in the movie, he was brilliant in some areas, but he could not clothe himself or feed himself and had all kinds of problems.

Then my grandson got nine shots in one day. Two days later, the child that was normal was running around banging his head against the wall, flapping his hands, had constant constipation and diarrhea combined, and he would not look at you anymore, and he could not talk. He had autism.

I decided to start taking a look at this problem and find out what caused it. Nine shots in one day, seven of which had mercury in them. The cumulative effect of those shots showed that he had 40 times the amount of mercury that was tolerable in an individual in one day. He is ruined for life.

We might say that that is an isolated case. Do Members know how many people are autistic in America, how many kids? Ten years ago, it was one in 10,000. Now it is one in 250, a 40-fold increase in 10 years. And we had the audacity to take the only tool that these parents had out of their hands to

soothe the pharmaceutical companies that manufactured that. The pharmaceutical companies, make no mistake about it, ought to be held responsible.

I would like to go through the Vaccine Injury Compensation Program if we could adjust it to make it fair to all these families, but we cannot write off people who have gone beyond the 3-year period and have no recourse unless they sue. We have to adjust that vaccine compensation program, and that is what we need to do next year.

I have had so many hearings on this. That is why I am so surprised we were not contacted. I have had mothers come in and fathers come in. It is four times more prevalent in boys than girls. In Brick Township in New Jersey, it is one out of less than 150 kids that are autistic. They believe that the mercury is being acquired in additional ways, as well.

When we hear these stories about these families that are going through this we just cannot understand it, why it is happening. They said the Vaccine Injury Compensation Program that we came up with in the late eighties, thanks to the gentleman from California (Mr. WAXMAN) on the Democratic side and my colleagues on the Republican side, was supposed to be a solution. It was going to help the pharmaceutical companies to reduce the number of lawsuits against them by saying that we had to first go through this vaccine injury compensation fund, and it was supposed to be nonadversarial.

We had people come before the committee who had kids who had been damaged by vaccines, including those containing mercury. Some of them had to wait until their child died before they got the money. One of the people was threatened by the Justice Department, saying, if they said anything about this, they would appeal the case and they would not get paid.

So this is a very adversarial situation. That needs to be corrected, too, because these parents are putting out thousands of dollars out of their pockets to take care of their kids. Their kids' lives are ruined. They have to deal with it. Eighty-five percent of the people that are married that have autistic kids get divorced, 85 percent, because of the pressures on the family.

Let me just tell the Members about a couple of other cases besides the one that I am involved with with my family. Incidentally, I have two grandchildren. My grandson is autistic, and my granddaughter got a Hepatitis B shot which contained mercury, and she quit breathing 2 hours later. They rushed her to the hospital, gave her mouth-to-mouth resuscitation, and she recovered and she was fine.

Yet, she now has grand mal seizures. We never had those in our family, in the history of our family on either side. We thought she was getting over them, and last night my daughter called me this morning and said she had another seizure in the middle of the night; a beautiful child, cheerleader, 9 years old. Members would see a picture and say this kid is beautiful. Yet, she has been affected by something, and I think it is probably the mercury in the vaccines.

Anybody that does not know mercury is a very toxic substance has their head in the wrong place. They took it out of Mercurochrome years ago. Remember when we used to put that red stuff on our skin, Mercurochrome? They took it out of there years ago because they said it caused some skin damage, plus there was concern about the mercury leaching into the skin, going to the brain, and causing neurological problems; yet they are still using it in vaccines.

Let me tell the Members about the Zuhlke case. Janet Zuhlke's daughter had a severe reaction to a childhood vaccination almost immediately after she got her shot. It was an injury that was on the injury table established by Congress. When you are on that injury table, compensation is supposed to be almost automatic.

The vaccine injury was certified by some of the most prominent neurologists in Florida, but the Justice Department has fought her case for 10 years so she could not collect from the vaccine injury compensation fund. Her daughter got the shot when she was 6 years old. She is almost 18 now. The family has not received a cent, although they are finally getting close to resolving the case.

Why should that case take 10 years? It is on the list. Neurologists verified that the child was damaged by the vaccine; yet, nothing has happened.

□ 1130

The Barton case, Lori Barton of New Mexico, had a similar experience. Her son's case was a little more complicated, but he did have a table injury. That is on the table of injuries. Again, we had a case that took 10 years to resolve. After this lengthy fight, the Barton's finally won compensation. The problem is their son died halfway through the case.

Lori Barton and her mother testified before my committee that they were cross-examined like criminals by the government attorney. After they finally won their case, the government threatened to appeal the ruling and drag it out for another year unless the family agreed not to have the case publicly listed so it could set a precedent for other families.

Can you believe that? The child died and they agreed they should be compensated out of the fund, but they threatened them, saying if you say anything about this we will carry this thing on for another year. And God only knows how many thousands of dollars that they had to put out to take care of this problem. This was supposed to be a nonadversarial program.

I want to thank Dr. Cathy Pratt from the Indiana Autism Resource Center at Indiana University for helping my kids in these early days.

I want to show my colleagues some of these charts here, because I think a picture sometimes is better than a thousand words. This is what has happened in California. A 300 percent increase. And these figures do not go past 2000. That is California.

Now, we have a program called IDEA, and that is where we put money into a fund that goes out to the States to help children who have learning disabilities. This is Indiana, my home State. If we look here, we see that in the early 1990s, back to 1980, it was pretty level, the amount of autism we had. But then they introduced two additional vaccines that had a large amount of thimerosal in them, the Hib vaccine, which dealt with a flu-type problem children have, and the hepatitis B vaccine.

Now, if my colleagues will look at this, you can see the huge increase in the amount of autism since 1990; and the schools cannot cope with it because many of these kids need one-on-one attention to help them. They cannot cope with it because there has not been enough money appropriated for the IDEA program. Well, I am for cutting government spending, but if we are not going to take care of these kids one way, they have to be taken care another way. So, educationally, we can see there is a problem.

Talk to any school in the country. I submit to my colleagues, call them up and talk to them. They will tell you that they are being inundated with kids with autism, and they are having a difficult time helping them with their education. Some of them can be educated and become fairly independent later in life. But the fact of the matter is, we have to educate them.

In California, they estimate that between the ages of 6 and 18 an autistic child is going to cost the State $2 million. Two million dollars. The cost to this country for autism is going to be in the billions and billions, and maybe the trillions, of dollars in the years to come if we do not find a solution to this problem.

It used to be 1 in 10,000 children. In some parts of the country, it is 1 in 150 that are autistic right now. But nationwide, according to CDC and HHS, our health agencies, there has been a 40-fold increase. It is 1 in 250.

I submit that any person who has a child ought to think very carefully about what they are putting into their child in those vaccinations. I am for vaccinations. I think they are very important. They made this one of the most healthy nations in the world. In fact, the most healthy Nation. But there are certain things put into them that should not be in there, in my opinion; and I think scientists around the world would bear that out.

Now, the Autism Society of America estimates that autism is increasing at a rate of 10 to 17 percent each year, and

that is faster than any other disease in the country. Any other disease. The Autism Society of America estimates that the total cost of autism each year is between $20 billion and $60 billion to our economy.

I talked about the school problems. Parents who have autistic children who are past the 3-year statute of limitations have no place to go. And I have talked to parents who have gone bankrupt, who have had their children die, who have ended up in divorce, have had all kinds of problems because of the problems that their children have incurred from autism.

And yet they say there is no research that shows one way or the other what is causing it. Scientists in other parts of the world, in Denmark, as I say, they have taken mercury out of vaccines back in 1992, and yet in the early 1990s we were adding more mercury to the vaccines of our children.

When I was a kid, we got maybe two or three vaccinations. We got the smallpox vaccine, everybody knows about that, and we will probably get that again, but we did not get very many. And there was not a lot of thimerosal being injected into our bodies. But now a child gets between 25 and 30 shots before they go to school. Many of them contained, in the past, mercury; and many scientists believe that that is one of the major causes of autism.

But there has not been any studies. Why has the FDA and the CDC not done extensive studies? Where did thimerosal come from in the first place? Back in the 1930s, the 1920s, they came up with this idea of putting a preservative in vaccinations that contained mercury. They tested it on 20 some people. This is back around 1929, 1928; and the 20 some people that they tested thimerosal on all had meningitis and they all died. But it was not because of the thimerosal, it was because of the meningitis. So they said it did not have any dilatory or adverse effect. That is a heck of a test.

When I asked the FDA why they have not tested it since, they say it is because after so long a time a thing has been used, they accept it as an acceptable preservative. But it has never been tested in humans. They have tested it in some animals and rats, and a lot of them died. I would like to go into all those studies with my colleagues, but I will put those in the CONGRESSIONAL RECORD and my colleagues can read them at their leisure.

The fact is that mercury in vaccines is not good. It is wrong. It is a toxic substance and should not be there.

The CDC is spending $932 million a year on the AIDS epidemic, and AIDs deserves attention. So does diabetes. This year we are going to spend $62 million on diabetes, and we probably ought to spend more than that. But do you know how much they are spending on research for our children who are autistic? About $10 million. So we are spending 80 times more on AIDS research than we are on autism, yet it is the fastest-growing problem in America. And we are spending five to six times more on diabetes than we are on autism.

The National Institutes of Health has a total this year of $27 billion. That is $27,000 billion. And they have been spending $22 million on autism out of $27 billion. This past year, because we have been raising cain, they did kick it up to $56 million. But $56 million out of $27 billion on the fastest-growing problem in America is not very much, and they have not researched the correlation between mercury in vaccines and autism.

We need to find out the cause. We need to determine how to stop the epidemic. We need to evaluate treatment options. We need to make sure that the people who are damaged from mercury in vaccines are compensated.

The people who produce the thimerosal, the mercury-based preservative, do not contribute anything to the vaccine injury compensation fund. And with the language that was put in the bill, gets them off scot-free. They do not ever have to worry about it. Because they are not putting any money in the fund right now, and they certainly would not have to if that language stayed in the bill in the future. And that is wrong. Because we should find out, and I believe we will find out, that they are a contributing factor, a major factor, in autism.

As I said before, thimerosal is 50 percent mercury, 50 percent mercury and 50 percent thiosalicylic acid. A 6-month old baby that received all the vaccines on schedule would get 75 micrograms of mercury from three doses of DTaP, 75 micrograms of mercury from three doses of Hib, and 37.5 micrograms from three doses of hepatitis B vaccine. That is a total of 187.5 micrograms, and that exceeds the suggested safe limits published by the EPA.

I do not know if the FDA talks to the EPA or not. That is something we are trying to solve with Homeland Security. But we have the EPA saying that the amount of mercury from those three vaccines that are going into our kids exceeds the safe levels in an adult. That is what the EPA says. Yet that is what we are doing, and have been doing, and the parents have no recourse.

Many clinics and doctors, as I said before, still have on their shelves vaccines that contain thimerosal. Those should be recalled. All that should be recalled. They say they are not producing any more, but we should not be putting any more into our kids. And they should not be putting it into adults either. We in Congress and people across this country should not get a flu shot and unknowingly have mercury injected into them year after year after year. Because, as I said, it has a cumulative effect in the brain, and you can talk to any scientist and they will tell you that.

I read to my colleagues before part of the report that was given in an HHS document that I had to subpoena. I want to read again a little bit of that. This is an HHS document that we had to subpoena to get.

It says, ''Preliminary screening of ICD–9 codes for possible neurologic and renal conditions following exposures to vaccines containing thimerosal, mercury, before 3 months of age showed a statistical association for the overall category of neurological developmental disorders and for two conditions within the category, speech delay and attention deficit disorder.''

So they are saying there is a statistical link between that and these kids that are under 3 months old that are getting these vaccines. And yet, when a child is in a hospital right now, they are getting a hepatitis B vaccine before they leave the hospital. And the only way you can get hepatitis B is through sex, needles or blood. Now, I do not know how many kids are out there having sex or using needles or having a blood transfusion. But, unless you have those, there is no need for those kids to even be getting that vaccine at that age.

In 2001, the Institute of Medicine concluded that a connection between thimerosal and autism, while unproven, is biologically plausible. ''The IOM called for further research, stating evidence is inadequate to accept or reject a causal relationship between exposure to mercury, thimerosal, from vaccines and neurological developmental disorders of autism, ADHD, and speech and language delays.''

So they do not know, because they have never done any testing on it, and yet they continue to inject our kids with this stuff.

I want to go on and quote a little more of what she said. She says, ''Because mercury at high doses is known to pose risks, some parents and researchers are concerned that thimerosal in vaccines put children at increased risk for developmental disorders such as autism. Preliminary data from a few studies have suggested that thimerosal-containing vaccines could possibly,'' could possibly, but then she says, ''very minimally,'' because they do not know, ''affect some measures of normal child development. But the data are inclusive.''

If it is inconclusive, why have our health agencies not been checking it out? Why have they not done something since 1929 to check this substance out, instead of continuing to inject mercury into our kids? They have taken mercury out of thermometers, they have taken it out of our topical dressings, and yet they are still injecting it into our kids and into adults.

And I want to say something that is very interesting. They are taking it out of children's vaccines here in America, but they are still putting it in vaccines they are sending to Third World countries. So my colleagues who are concerned about Africa and India and other parts of the world where they have huge populations and they have

to vaccinate their kids, mercury is being injected into those kids, even though they are starting to take it out of vaccines here in America. That shows what we think sometimes in our health agencies about the rest of the world.

''Existing epidemiological evidence is inadequate to either accept or reject a causal relationship between exposure to thimerosal from vaccines and neurodevelopmental disorders of autism.''

□ 1145

It is important to remember that the absence of proof of a correlation between vaccines and autism is far different than having a test and proving no vaccine causation.

Now, what does this mean for families? I want to tell Members about another family which has been before our committee. Scott Bono of Durham, North Carolina, testified before our committee a few years ago. His son, Jackson Bono, is one of those children who was adversely affected by thimerosal. He has autism. He is documented to have toxic levels of mercury in his body. He is now 13 years old. It is likely that the case his family has filed with the Vaccine Injury Compensation Program will be kicked out because of the 3-year statute of limitations. Unless his family can seek compensation through civil litigation, they will likely never be compensated for their child's vaccine injury.

They know that he has mercury in his body at toxic levels. But because the 3-year statute of limitations has passed, he has no recourse.

We did not publicize this nationwide. When we came up with this Vaccine Injury Compensation Program, they did not tell all Americans who had autistic children they had 3 years to file. A lot of people thought they had no recourse, so they filed suit and they did not go to the Vaccine Injury Compensation Fund; and they found out 3 years later, too late, that they could have gone to this fund and maybe been paid.

Mr. Speaker, that is why we need to reevaluate the entire fund and the approach to it. We need to have at least 6 years and a 2-year look-back provision to allow parents with damaged children to have access to that.

If it costs more money to put into the fund by the pharmaceutical companies, right now they are paying so much per shot into the fund, like a tax on each shot, then if we have to increase that a little bit, so be it. But those families need to be compensated, and they should not be shut out just because 3 years has passed.

I want to tell Members what I think ought to be in the Vaccine Compensation Program, and the gentleman from California (Mr. WAXMAN) and I, along with the gentleman from Florida (Mr. WELDON), have filed a bill that I hope will do this. Since this issue has become so big because of the homeland security bill, I hope Members will vote favorably for this bill next year.

First, the bill increases compensation for future lost earnings for injured children. Under current law, compensation is based on the average weekly earnings of full and part-time workers as determined by the Bureau of Labor Statistics. This bill would specify that only full-time workers should be used in the calculation so that there is a realistic amount of money for lost time and wages.

It would increase the level of compensation to a family after a vaccine-related death from $250,000 to $300,000. The death benefit has remained unchanged since the program's inception in 1986. Inflation alone makes it higher than that.

It would allow families of vaccine-injured children to be compensated for the costs of family counseling and creating and maintaining a guardianship to administer the funds and allow for the payment of interim attorneys' fees. They cannot get an attorney to take their case because it is such a long-drawn-out procedure. If they are not in the class action suit and they go to an attorney, he says, I want some money for my work. These attorneys do not work pro bono, so it is difficult to find attorneys to take their cases. So we ought to allow for payment of interim attorneys' fees and legal costs while the petition is being adjudicated.

The costs of assembling the necessary medical records and obtaining expert witnesses are substantial. Under current laws, these costs, as well as the attorneys' fees, are not reimbursed until the case is finally resolved, and they are not being resolved.

We should extend the statute of limitations 6 years from the date of injury. Under current law, families have to file within 2 years of the child's death or 3 years of the child's injury.

We should provide a one-time, 2-year period for families to file a petition if they were previously excluded from doing so because they missed the statute of limitations. So we ought to publicize across the country if a child is autistic and they were damaged by a vaccine in the compensation fund list table, that parents ought to have 2 years to file for their child's injury.

There have been other bills which have been introduced. However, the other bills also appear to protect industry more than protecting the families; and we need to scrutinize those very, very carefully.

Let me just conclude, and I know that I have been going on here for a long time, but I want to show Members one more chart.

This chart shows Dr. Leo Canner discovered autism among children born in the 1930s, and it shows a pretty consistent rate of autism for those who were being vaccinated. Then we increased the rate of vaccination here in the late 1960s, early 1970s, and then we notice that the Hib vaccine was introduced and the hepatitis B vaccine was introduced in the early 1990s. If we look at this chart, the rate of autism from vaccine is pretty constant until the early 1990s, and then it spiked. We went from 1 in 10,000 kids to 1 in 250 nationally that are damaged with autism.

It is unconscionable to me. And I am one of those conservative guys. I am a conservative. I do not like to see the government spend money. I believe the government that governs best governs least, and I believe in lower taxes, so I am pretty much the last guy Members would expect to see up here talking about this. Government has to have a heart, as well as being a guardian of the pocketbook; and when parents who have children who are autistic and they suspect that they have been damaged by vaccines or mercury, they ought to have some recourse, and right now they have virtually none.

The producers of the vaccines, they ought to be protected to a degree, too. That is why I supported the Vaccine Injury Compensation Fund. But where the two meet, there has to be some fairness, and the fairness is that parents with autistic kids who have been damaged by vaccines and those vaccines are on that vaccine table, they ought to be compensated without an adversarial situation evolving through the Department of Justice and Health and Human Services. That is not the case right now.

If it means that we have to extract more money from the pharmaceutical companies when they give these vaccines, like a little increase in the amount of the fee that they are paying into the Vaccine Compensation Fund, so be it, because these parents and children have a right to a good life and to be treated fairly. Right now, that is not the case.

Mr. Speaker, I hope the leadership in the House and the other body will look favorably upon reevaluating the Vaccine Injury Compensation Fund when we return in January, that they will reevaluate the language in the Department of Homeland Security bill to make sure that it is fair to those parents who have been left out in the cold; and if we do that, then I think we can look at ourselves in the mirror and say we are doing the right thing for parents and especially the children of America.

WHAT DO WE KNOW FROM THE PEER-REVIEWED SCIENTIFIC LITERATURE ABOUT THIMEROSAL?

Thimerosal is a preservative that is approximately 50 percent ethylmercury and 50 percent thiosalicylic acid (TSA—sometimes referenced in the literature as a salt). First licensed in 1930 by Eli Lily and Company, it has been used both in the manufacturing process of vaccines and as a preservative in single and multi-dose vials. Over the last 20 years the FDA determined that single dose vials would not require a preservative.

In the 1980's the FDA had already acted to pull mercury-containing topical ointments such as merthiolate from the market because they no longer considered them safe.

Both components in thimerosal are problematic. Mercury is known to be toxic to the central nervous system and to the renal system. Thiosalicyclic acid is known to cause an allergic response in a significant portion

of the population. It is so allergic, that a skin patch test was developed decades ago, but has not been routinely used prior to vaccinations.

Below is a summary of published research papers discussing safety issues of thimerosal.

1. We know that in 1947, 31.5 percent of cases of contact dermititis was due to thimerosal. Of these 75 percent was confirmed to be related to the TSA and 12.5 percent confirmed to be related to mercury. We know that the authors of the 1947 paper questioned the wisdom of injecting thimerosal.

A 1947 paper reports on a series of case reports. The author makes reference to a 1942 test in which 1 of 6 patients tested were sensitive to merthiolate (16.7 percent). It also references a 1945 test which found that 8 patients were treated for contact dermatitis use related to merthiolate. Six of these were tested for TSA and reacted (75 percent). An 8th patient proved to be sensitive to mercury (12.5 percent). The article goes on to state that 35 percent of contact dermatitis (in general) is due to therapeutic agents, (i.e. from putting a medication on the skin). Of those 35 percent, 90 percent were due to merthiolate. Therefore, it meant that 31.5 percent of contact dermatitis (in general) was due to merthiolate (i.e. TSA and mercury) While much of the focus has been on the mercury component of thimerosal, the articles points to the high level of allergic response due to the TSA component. Given that thimerosal = ethylmercury + TSA, it doesn't really matter whether it is TSA or the mercury that causes the problem.

Dr. Vera Stejskal, a noted European researcher testified before the House Committee on Government Reform that is not simply the toxicity of the mercury, but also the sustained allergic response to mercury and TSA that can lead to a systemic response—which can include a swelling of the brain.

Notable quotes from paper:

''No eruptions or reactions have been observed or reported to merthiolate internally, but it may be dangerous to inject a serum containing merthiolate into a patient sensitive to merthiolate.''

''The thiosalicylic acid radical is the usual sensitizing factor in merthiolate sensitivity.''

''Only one patient who had merthiolate dermatitis gave a negative patch test to thiosalicyclic acid.

2. We know that in 1948 there were frequent reports of adverse reactions related to topical application of thimerosal.

A 1948 paper reports on a 1947 case in which a 45-year-old woman suffered multiple reactions to merthiolate applied to her skin prior to surgery. She suffered fever and chills and had small vesicles and erythema in the area of merthiolate application. After her recovery, the patient indicated that the ulcer for which she was being surgically treated appeared after repeated applications of a tincture of merthiolate. Thinking she was treating the skin itch, she applied merthiolate daily. She continued the application until the skin because too raw and painful to continue use—then sought medical care. After the surgery, she developed pruritis in the area of the reaction. Two months later upon an office visit, the patient's pruritis and crusting of the skin continued, while the erythema had almost subsided.

The article notes that there are many severe reactions reported following the use of mercurial ointments and a lesser number due to antiseptics containing mercurials, recommended further research to determine if harm would results following its subcutaneous or intravenous injection in skin sensitive individuals. The article also notes that most of the references to reactions to thimerosal are published in dermatology journals which general practitioners would not be reading, and thus not be alerted to the problems.

Notable quotes from paper:

''Merthiolate is such a commonly used preservative for biologicals, plasma, cartilage, etc., that it would seem important to determine whether harm would result following its subcutaneous or intravenous injection in skin sensitive individuals.''

''It seems more logical, therefore, to ascribe most of the reactions of merthiolate to the thiosalicylate rather than the mercuric compound it contains.''

A 1950 research paper published in the New York Academy of Science found that mercury bichloride (which is not merthiolate) was toxic when injected, that it caused dermititis if used on the skin too long, and that it could not be used in chemotherapy.

Additionally, this article provides an historical perspective of the use of mercurials to prevent sepsis. It also mentions that much of the early work conducted on these products was inadequate to make the claim. The research conducted for this paper was specifically to disprove the claims of high germicidal and sporicidal activity increasingly being touted in textbooks.

3. A 1963 research publication reported that a patient who is sensitive to merthiolate should not be injected with thimerosal. It notes that a patch test exists—and has existed for decades, but there has never been routine testing of infants or children to determine if there is an allergic response. Allergic responses are often overlooked. While the article states that individuals who are allergic to merthiolate are usually sensitive to the TSA, it also mentions that some are sensitive to the mercurial component.

The article also stipulates that in determining who will be sensitized, the frequency the topical ointment is used seems to affect the numbers who become allergic. If this argument upholds, it could be extrapolated to mean that the early and frequent use of thimerosal in childhood vaccines could make newer generations more susceptible to allergic responses to TSA and mercury. The paper reports that patients react differently—there is a dermal and epidermal reaction (possibly a systemic response).

Of particular concern from this paper is that if this is true, that with new and increasing recommendations from the CDC to given adults booster shots from childhood immunization and to give flu and other vaccines that adults may begin to suffer similar allergic (and systemic) reactions to thimerosal in vaccines.

Notable quotes from paper:

''There is another point of practical significance: does the parental injection of merthiolate-containing fluids cause disturbances in merthiolate-sensitive patients.''

''It is known that persons that are contact sensitive to a drug may tolerate the same medications internally, but it seems advisable to use a preservative other than merthiolate for injections in merthiolate sensitive people.''

''Patch and intradermal tests of Merthiolate ''do not produce reactions in normal, nonsensitive persons, according to the literature and my own experience.''

Test results present ''a picture of allergic reaction and corresponds to those reactions seen in contact dermatitis.''

''It is generally recognized sensitivity to Merthiolate usually is not due to its mercurial component but to the thiosalicylate part of the molecule . . . although some patients who are allergic to Merthiolate also react to other mercurials.''

''The intradermal injection of Merthiolate from numerous intradermal tests in my cases did not seem to cause any systemic reactions.''

4. A 1973 report of skin burns resulting from a chemical reaction of thimerosal and aluminum resulted in Lilly adding a new warning to the label in 1973.

Through multiple tests it was learned that thimerosal acted as a catalyst to the oxidation of aluminum. Blisters on the skin resulted. It was suggested in this article that thimerosal and aluminum should not be used together. (However, aluminum is another ingredient in many children's vaccines.)

Notable quotes from paper:

1972 British Medical Journal reports cases of skin burns resulting from the chemical reaction of thimerosal and aluminum. ''Mercury is known to act as a catalyst and to cause aluminum to oxidize rapidly, with the production of heat.'' The manufacturers who supply us with thimerosal have been informed.

5. A 1972 paper reports on six patients who died as a result of subacute mercury poisoning from merthiolate. The doses of merthiolate were likely 1,000 higher than expected doses.

This article is important in that it shows that there is indeed a level in which merthiolate (thimerosal) can be toxic. A dose of 1,000 times the intended dose is now proven to be deadly. (We have not seen any research that indicates the exact dose that it would become toxic.) The LD50 (the dose at which 50 percent of the test animals die) for rats is 60 mg/kg of body weight.

The article references the subacute nature of the poisoning—i.e. showing that the death was not rapid, but that death occurred after the cellular enzyme was poisoned by the mercuric ion.

The article notes that in chronic poisoning, where small amounts of mercury are ingested over a long period, that the symptoms were mostly neurologic.

In immediate forms of poisoning, the kidneys were the affected area.

While merthiolate was used in blood plasma products extensively in WWII, it was learned that that a higher concentration of merthiolate resulted in the destruction of red blood cells, which was a noted issue in several of the cases reported in this paper.

Notable quotes from paper:

''The case histories of four children and two adults who were accidentally given toxic amounts of Merthiolate are recorded.''

''Five out of the six patients died, and necropsy showed extensive renal tubular necrosis in each case, and in two, evidence of diffuse intravascular coagulation.''

''Merthiolate (Thimerosal, Thiomersal) is an organo-mecurial compound widely used as an antiseptic agent. Its main application in medicine has been as a skin antiseptic, and it has also been incorporated as a preservative in attenuated polio and influenza virus preparations. Similarly, vials of antibiotic preparation may contain Merthiolate as a bactericidal agent to allow such vials to be used for several doses.''

''Toxic effects in man have been confirmed mainly to skin reactions, which on occasions may be severe.''

''Intravenous Merthiolate has been used in the treatment of subacute bacterial endocarditis with no apparent ill effects (Powell and Jamieson 1931). However, the doses used were very small.''

''The amount of Merthiolate in each vial was 1,000 times as much.''

''The LD50 (lethal dose for 50 percent of test population) for Merthiolate in man is unknown. However, these six patients received between two and six times the LD50 for rats (LD50 60 mg/kg).''

5. In 1982, the FDA published an Advance Notice of Proposed Rulemaking to ban the use of thimerosal in OTC products.

This FDA generated documents that lists the high level of toxicity of thimerosal in their proposed rule for OTCs. The announcement noted delayed hypersensitivity in 10 of 20 guinea pigs (50 percent) tested indicating that thimerosal is highly allergenic and that it is reasonable to expect humans to be equally allergenic.

The report also notes a Swedish study found in healthy subjects the following had hypersensitivity to thimerosal:

10 percent of school children,

16 percent of military recruits,

18 percent of twins, and

26 percent of medical students.

The FDA concludes that while it has been suggested that hypersensitivity may be due to the TSA portion of the molecule and not the mercury, that this was not confirmed. They succeeded in their move to ban OTC products with thimerosal.

Notable quotes from paper:

''At the cellular level, thimerosal has been found to be more toxic for human epithelial cells in vitro than mercuric chloride, mercuric nitrate, and merbromim (mercurichrom).''

''It was found to be 35.3 times more toxic for embryonic chick heart tissue than for staphylococcus aureus.'' (1950 study showed that thimerosal was no better than water in protecting mice from potential fatal streptococcal infection.)

''The Panel concludes that thimerosal is not safe for OTC topical use because of its potential for cell damage if applied to broken skin and its allergy potential. It is not effective as a topical antimicrobial because its bacteriostatic action can be reversed.''

6. Occupational Safety Materials give the following warnings:

Primary Physical and Reproduction Effects: Nervous System and Reproduction Effect.

Effects of exposure include fetal changes.

Exposure in children may cause mile to severe retardation.

Hypersensitivity to mercury is a medical condition aggravated by exposure.

CERCA Hazardous substance—toxic waste disposal.

The MSDS statement states that the primary physical and health hazards include that it is toxic, a mutagen, an allergen, and can have nervous system and reproductive effects.

Early signs of mercury poisoning in adults include: narrowing of the visual field and numbness in the extremities.

Exposure to mercury in utter may cause mild to severe mental retardation and mild to severe motor coordinating impairment.

In the toxicological section it was noted that in rats, an intravenous dose of greater than 45 mg/kg was needed for mortality.

7. A 1973 paper on the toxicology of thimerosal notes, ''as with other chemicals of its generation, information relating to safety and efficacy of thimerosal in animal models is sparse.''

The article reviews the existing animal studies:

In mice, all injections of 150 mg of thimerosal per kg of body weight were lethal within 1 hour.

A 1937 study performed by Lilly gave 20 mice 30 or 50 mc/kg of a 1 percent solution of thimerosal. The lethal dose of 50 percent of the mice was found to be 40.9 ± 1.2 mg/kg.

A 1945 study was done in mice. Doses ranging from 40–62 mc/kg of thimerosal was given intravenously. Most deaths occurred 3 days later, however a few mice died as late as 9 days later. The lethal dose of 50 percent was calculated at 55 ± mg/kg.

In a rat study, 45 mc/kg was the tolerated intravenous dose. Autopsy revealed definite kidney lesions, consisting principally of tubular changes, necrosis of the epithelium (membranous tissue composed of one or more layers of cells separated by very little intercellular substance and forming the covering of most internal and external surfaces of the body and its organs), inclusion of masses of debris in the lumen (the inner open space or cavity of a tubular organ, as of a blood vessel or an intestine) and congested and hemorrhagic regions throughout the cortex (the outer layer of an internal organ or body structure, as of the kidney or adrenal gland/the outer layer of gray matter that covers the surface of the cerebral hemisphere).

In a rabbit study, 25 mg/kg was usually tolerated dose. Pre-death signs of toxicity included prostration (total exhaustion or weakness; collapse) and diarrhea. Death occurred 1–6 days post-treatment and cause of death was attributable to mercurial poisoning, including kidney and intestinal lesions.

Another rabbit study tested 20 or 60 mg/kg intravenous dose of thimerosal. Onset of side effects and death occurred at both doses and varied with dose and rate of injection. Side effects noted were drowsiness, ataxia (loss of the ability to coordinate muscular movement), weight loss, and oliguria (production of an abnormally small amount of urine). Animals receiving a dose of 60 mg/kg showed a progressive fall in serum potassium and an elevation in urinary potassium excretion. Histopathology included kidney tubular necrosis but no glomerular (glomeruli: a tuft of capillaries situated within a Bowman's capsule at the end of a renal tubule in the vertebrate kidney that filters waste products from the blood and thus initiates urine formation) lesions.

In a series of studies that tested the oral delivery of thimerosal in rats, the lethal dose of thimerosal was estimated to be greater than 50 mg/kg but less than 100 mg/kg. Side effects preceding death included ptosis (Abnormal lowering or drooping of an organ or a part, especially a drooping of the upper eyelid caused by muscle weakness or paralysis), chromorhinorrhea (miscolored nasal discharge), poor grooming, and weakness.

These studies which originally lasted 7 days were extended 14 days and showed that there is a delayed toxicity in thimerosal. This is also shown in other studies previously discussed. This raises a large number of questions about the lack of safety studies in this area. Toxicity death prior to 3 days in one study only occurred at the 125 mg/kg level. The 50 percent death rate after 7 days was calculated at 88.8 ± 5.7 mg/kg but additional deaths occurred during the second week resulting in a 14 day 50 percent death rate of 72.7 ± 5.4 mg/kg.

An intraperitoneal (inside the area that holds the abdominal organs) study on guinea pigs tested injections of varying thimerosal solutions strengths. No abnormal responses were seen at the 0.0125 percent or 0.025 percent. Those treated with 0.05 percent or 0.1 percent evidenced irritation and pain, and autopsy revealed congestion (excessive fluid) and hemorrhage in the peritoneum.

Intracutaneous studies in rabbits found that some of the animals became irritated and other did not. In a guinea pig study found similar response and showed that the level of response was dose related.

As an extension of the intracutaneous study, a subcutaneous test was done on 3 rabbits. After 24 hours, no irritation was noted on the skin. The animals were sacrificed and examined. A few of the injection sites had caused small sites of hyperemia. The cause of this was unclear (thimerosal or needle puncture of small vessels).

A dermal study of rabbits found no dermal irritation.

In an ocular study with rabbits, tincture merthiolate (thimerosal, alcohol, and acetone) was found to be an eye irritant, damaging both the iris and the conjunctivia. The study was consistent with other studies on alcohol ocular irritation. In another study of mercuialentis, an ocular study of rats and guinea pigs (30 days) found no corneal toxicity. However, they found measurable levels of mercury in both eyes (test was in one eye) and in peripheral blood of rats.

In a subacute toxicity study in dogs given thimerosal intravenously. None of the dogs died from the 2 mg/kg of thimerosal.

WRITTEN TESTIMONY BEFORE THE HOUSE COMMITTEE ON GOVERNMENT REFORM—APRIL 18, 2002

My name is Lee Grossman and I am President of the Autism Society of America, Chair of the Autism Society of America Foundation, a member of the federal government's Interagency Autism Coordinating Committee, a resident of Honolulu Hawaii, a small business owner for over 20 years in the medical industry and, most importantly, a father of a child with autism. Vance. Mr. Chairman, I would like to thank you and your colleagues on the Committee on Government Reform for this opportunity to present testimony on the issue of autism, the fastest-growing disability in our country today. As president of the Autism Society of America, I can tell you that hearings such as this offer hope to the hundreds of thousands of individuals and families affected by autism.

The Autism Society of America (ASA) is the nation's largest autism organization with over 200 chapters throughout the U.S. representing professionals, individuals with autism, and their families.

I am here today to share some important information about autism with you and to tell you why it is imperative that we do everything possible to expand programs and research into this puzzling and debilitating disability. You may be surprised to learn that it has been 60 years since autism was first identified, and yet we still don't know what causes it, we don't know how to effectively treat it, and we don't know why it is on the rise, although several theories exist regarding the dramatic increases that we are seeing across the United States.

Just ten (10) years ago, autism was thought to be a rare disorder affecting 1 in 10,000 individuals. Five years ago, researchers, including those at the National Institutes of Health (NIH), Centers for Disease Control and Prevention (CDC), and the Department of Education, estimated that 1 in 500 individuals had autism. Today, researchers believe this number may be closer to 3 in 500 (CDC, 2001). This means that as many as 1,500,000 individuals in this country alone may have autism today.

And, again, this number is on the rise and not solely due to better diagnosis and identification. Based on reports from the U.S. Department of Education and state agencies, the ASA estimates that autism is increasing at the alarming rate of 10 to 17 percent each year, faster than any other disability or disease. At these rates, in the next decade, autism could surpass mental retardation as the most common developmental disability facing this country.

If we don't act now, there is no doubt that autism will have devastating effects on our national health and education systems. Today, the total cost of autism is $20 billion to $60 billion annually (based on current figures of 500,000 to 1,500,000 individuals with autism at an annualized per-person cost of $40,000). By 2010, this cost associated with autism could more than double or quadruple to $55 billion to $300 billion per year.

The only way to prevent this economic fallout from becoming a reality is to invest more money in research to solve the puzzle of autism, to expand educational and vocational opportunities, and to create support services that are currently lacking or nonexistent for those already affected by autism.

Research and programs are needed now if we are to thwart the growth rate and to prevent more families from receiving the devastating news that their son or daughter has autism. We commend you and your committee for your recognition of the growing problem of autism with strides you have made in the last two to three years to raise awareness about autism and to support and put into motion several research initiatives and funding, including the research programs established as a result of the Children's Health Act of 2000. This is the type of informed action of which I speak.

In fiscal year 2002, NIH will be spending $66 million on autism activities. The CDC, through its Center for Birth Defects and Developmental Disabilities, will be allocating $9,230,000 for its surveillance programs. These funding levels represent a dramatic increase in research towards this disorder. We applaud the work of those federal agencies which the ASA has enjoyed a closed relationship with.

Unfortunately, these gains pall compared to the huge economic and social problem of autism today and in the near future. Our nation is in the grasp of an autism national emergency health crisis; a crisis that demands a significantly more aggressive response from the federal government to counter the growing costs and fractured lives caused by autism. If we are going to make further progress in our understanding of this disability and begin making strides in treating it, we must geometrically increase the research commitment from all areas of the federal government to approach the geometric growth of autism.

The ASA is the voice of the autism community, and that community seeks increased funding for: (1) research and prevalence studies, (2) physician and caregiver awareness programs, and (3) early intervention programs. The ASA also calls for legislative action with regard to the recommendations of the National Research Council's report ''Educating Children with Autism'' and the need for support services for adults with autism. Please note that as long as the cause and cure for autism elude us, more and more persons with autism will become adults with autism. The appropriate care levels for adults is and will be greater than costs related to children.

AUTISM RESEARCH

Current funding levels in biomedical research at NIH are terribly low in relation to the disorder's population and economic impact. We are recommending that the federal government increase the funding available for research over the next three years to a level of $500 million per year devoted to basic science, environmental science, tissue and genetic collection, and all aspects of biomedical research related to autism. When compared to the annual growing rate of autism in our nation, this is substantially below funding to keep pace with the projected growth of autism.

In the area of applied research, we must find new and innovate ways to develop and implement therapeutic and clinical interventions and effective treatments. There have been to date virtually no activity and support from federal agencies in these vital areas. We recommend applied research funding be increased over the next five years to a level of $100,000,000 per year. This increase is needed in the case of autism because we are building from a zero base.

ASA also recommends that there is a need to increase the number of scientists involved with research and treatment grants. We request that NIH develop programs that encourage researchers to enter into fields associated with autism research and to stimulate new research protocols.

The CDC surveillance programs need to be implemented and then expanded immediately so that more exact figures on the prevalence and population of those with autism are established. In our discussions with CDC, we recognize that data from a substantial number of state or other geographic areas will be needed to better identify those who have autism and what scope of services will be needed. We, therefore, recommend that the CDC budget in the area be increased to $8 million to expand the number of regional centers and state surveillance programs from nine states to twenty states. These twenty states should represent a statistically sufficient database to allow CDC to better identify those who have autism, and then start looking for root causes and trends.

As we must find the causes and best treatments for those with autism, there is also a need to fund areas which could identify possible causes of autism created by our society. A substantial number of families within our autism community believe some forms of autism may be caused by some use of vaccines. While we do not know this to be specifically proved at this time, we should not ignore the body of evidence which calls into question the source of many children with autism. If causation is found, those injured must be provided recourse and compensation. This is why ASA supports and asked for early adoption of the Congress of the Burton-Waxman Bill (H.R. 3741) which improves the National Vaccine Injury Compensation Program by extending the statute of limitations for individuals to file claims and provides a two (2) year ''Lookback provision'' for the families that are presently prevented from filing under the program through no fault of their own.

EARLY DIAGNOSIS AND EARLY INTERVENTION FOR CHILDREN WITH AUTISM

ASA strongly supports the general consensus that the most effective means for a successful result in the life of an individual with autism is through early diagnosis and early, intense, and appropriate intervention. Successful early diagnosis and intervention is a proven way to reduce the huge social and economic burden of autism.

Therefore, we recommend that a national awareness campaign be established through the U.S. Department of Health and Human Services (DHHS), national physician organizations, and community health centers to provide education and identification programs to pediatricians, child care providers and to the population at large. ASA has expressed its willingness to act in concert with DHHS to make this happen by drawing upon its unique membership and chapter bases with the entire autism community.

ASA also seeks increased fund for states through their Early Head Start (0–3) programs administered by the Administration for Children and Families to provide the intensive interventions that are necessary to provide effective treatments to these children with autism.

EDUCATION FOR CHILDREN WITH AUTISM

ASA recommends to the Committee that it support and develop legislation to implement the recommendations and plan detailed in the National Research Council's report ''Educating Children with Autism.'' The report precisely addresses the educational and intervention needs of secondary school aged children with autism. This is a case where the outreach of ASA has confirmed that there is something already in existence that can work today to benefit those with autism. This means money need not be spent on creating something new, but funds should be provided to get out the messages in this document and get what it advocates, which will be supported by the ASA, into practice.

ASA further recommends that Congress immediately reauthorize the Individuals with Disabilities Education Act (IDEA) and fulfills the long overdue commitment to the full funding of IDEA so our children and loved ones will be able to obtain a free and appropriate education.

SUPPORT AND SERVICES FOR ADULTS WITH AUTISM

The current availability of service, support, employment and residential options available to adults with autism can only be described as almost non-existent. For too long the service supports for these people has dramatically dropped once the person passes through the secondary education system. A comprehensive program must be developed and implemented to address the tremendous needs of this growing and immense population.

ASA has developed a white paper on this subject and has posted it on our Web site to help develop interest in having it implemented. ASA has joined with a coalition of adult service providers, and is assessing the needs of adults with autism to formulate initiatives and legislation to address this problem. We ask the Committee to join us in supporting the development of legislation and funding that will be necessary to deal with this current and ever-growing dilemma.

CONCLUSION

In closing Mr. Chairman, I would be amiss if I did not address the relevance and significance of this hearing. It is the first time, that I am aware, that the United States government has acknowledged the Autism Epidemic and attendant national health crisis. And with your acknowledgment, ASA stands firm and ardent in requesting that this nation take real and measurable actions today to stop this national economic, social and health emergency.

I have described in my testimony what needs to be done now in terms of money and autism. However, there is something just as important to be added—that is hope. The autism community has endured 60 years of unfulfilled hope.

Congressman Burton, I know you have waited with hope for five years, and I have waited and hoped for 14 years. If we will take the actions I have offered to you today, all our hopes can be translated into fulfillment. Please let us help each other give meaningful hope to the millions of people affected by autism. Let's take action!

AUTISM: A NOVEL FORM OF MERCURY POISONING

(By S. Bernard, A. Enayati, L. Redwood, H. Roger, T. Binstock)

Summary. Autism is a syndrome characterized by impairments in social relatedness and communications, repetitive behaviors, abnormal movements, and sensory dysfunction. Recent epidemiological studies suggest that autism may affect 1 in 150 U.S. children. Exposure to mercury can cause immune, sensory, neurological, motor, and behavioral dysfunctions similar to traits defining or associated with autism, and the similarities extend to neuronatomy, neurotransmitters, and biochemistry. Thimerosal, a preservative added to many vaccines, has become a major source of mercury in children who, within their first two years, may have received a quantity of mercury that exceeds

safety guidelines. A review of medical literature and U.S. government data suggests that (i) many cases of idiopathic autism are induced by early mercury exposure from timerosal; (ii) this type of autism represents an unrecognized mercurial syndrome; and (iii) genetic and non-genetic factors establish a predisposition whereby thimerosal's adverse effects occur only in some children.

INTRODUCTION

Autistic Spectrum Disorder (ASD) is a neurodevelopmental syndrome with onset prior to age 36 months. Diagnostic criteria consist of impairments in sociality and communication plus repetitive and sterotypic behaviors (1). Traits strongly associated with autism include movement disorders and sensory dysfunctions (2). Although autism may be apparent soon after birth, most autistic children experience at least several months, even a year or more of normal development—followed by regression, defined as loss of function or failure to progress (2,3,4).

The neurotoxicity of mercury (Hg) has long been recognized (5). Primary data derive from victims of containment fish (Japan—Minamata Disease) or grain (Iraq, Guatemala, Russia); from acrodynia (Pink Disease) induced by Hg in teething powders; and from individual instances of mercury poisoning (HgP), many occurring in occupational settings (e.g., Mad Hatter's Disease). Animal and in vitro studies also provide insights into the mechanisms of Hg toxicity. More recently, the Food and Drug Administration (FDA) and the American Academy of Pediatrics (AAP) have determined that the typical amount of Hg injected into infants and toddlers via childhood immunizations has exceeded government safety guidelines on an individual (6) and cumulative vaccine basis (7). The mercury in vaccines derives from thimerosal (TMS), a preservative which is 49.6% ethylmercury (eHg) (7).

Past cases of HgP have presented with much inter-individual variation, depending on the dose, type of mercury, method of administration, duration of exposure, and individual sensitivity. Thus, while commonalities exist across the various instances of HgP, each set of variables has given rise to a different disease manifestation (8,9,10,11). It is hypothesized that the regressive form of autism represents another form of mercury poisoning, based on a thorough correspondence between autistic and HgP traits and physiological abnormalities, as well as on the known exposure to mercury through vaccines. Furthermore, other phenomena are consistent with a casual Hg–ASD relationship. These include (a) symptom onset shortly after immunization; (b) ASD prevalence increases corresponding to vaccination increases; (c) similar sex ratios of affected individuals; (d) a high heritability rate for autism paralleling a genetic predisposition to Hg sensitivity at low doses; and (e) parental reports of autistic children with elevated Hg.

TRAIT COMPARISON

ASD manifests a constellation of symptoms with much inter-individual variation (3,4). A comparison of traits defining, nearly universal to, or commonly found in autism with those known to arise from mercury poisoning is given in Table I. The characteristics defining or strongly associated with autism are also more fully described.

Autism has been conceived primarily as a psychiatric condition; and two of its three diagnostic criteria are based upon the observable traits of (a) impairments is sociality, most commonly social withdrawal or aloofness, and (b) a variety of perseverative or stereotypic behaviors and the need for sameness, which strongly resemble obsessive-compulsive tendencies. Differential diagnosis may include childhood schizophrenia, depression, obsessive-compulsive disorder (OCD), anxiety disorder, and other neuroses. Related behaviors commonly found in ASD individuals are irrational fears, poor eye contact, aggressive behaviors, temper tantrums, irritability, and inexplicable changes in mood (1,2,12–17). Mercury poisoning, when undetected, is often initially diagnosed as a psychiatric disorder (18). Commonly occurring symptoms include (a) ''extreme shyness,'' indifference to others, active avoidance of others, or ''a desire to be alone''; (b) depression, ''lack of interest'' and ''mental confusion;'' (c) irritability, aggression, and tantrums in children and adults; (d) anxiety and fearfulness; and (e) emotional lability. Neuroses, including schizoid and obsessive-compulsive traits, problems in inhibition of preservation, and stereotyped behaviors, have been reported in a number of cases; and lack of eye contact was observed in one 12 year old girl with mercury vapor poisoning (18–35).

The third diagnostic criterion for ASD is impairment in communication (1). Historically, about half of those with classic autism failed to develop meaningful speech (2), and articulation difficulties are common (3). Higher functioning individuals may have language fluency but still show semantic and pragmatic errors (3,36). In many cases of ASD, verbal IQ is lower than performance IQ (3). Similarly, mercury-exposed children and adults show a marked difficulty with speech (9,19,37). In milder cases scores on language tests may be lower than those of unexposed controls (31,38). Iraqi children who were postnatally poisoned developed articulation problems, from slow, slurred word production to an inability to generate meaningful speech; while Iraqi babies exposed prenatally either failed to develop language or presented with severe language deficits in childhood (23,24,39). Workers with Mad Hatter's disease had word retrieval and articulation difficulties (21).

Nearly all cases of ASD and HgP involve disorders of physical movement (2,30,40). Clumsiness or lack of coordination has been described in many higher functioning ASD individuals (41). Infants and toddlers later diagnosed with autism may fail to crawl properly or may fall over while sitting or standing; and the movement disturbances typically occur on the right side of the body (42). Problems with intentional movement and imitation are common in ASD, as are a variety of unusual stereotypic behaviors such as toe walking, rocking, abnormal postures, choreiform movements, spinning, and hand flapping (2,3,43,44). Noteworthy because of similarities to autism are reports in Hg literature of (a) children in Iraq and Japan who were unable to stand, sit, or crawl (34,39); (b) Minamata disease patients whose movements disturbances were localized to one side of the body, and a girl exposed to Hg vapor who tended to fall to the right (18,34); (c) flapping motions in an infant poisoned from contaminated pork (37) and in a man injected with thimerosal (27); (d) choreiform movements in mercury vapor intoxication (19); (e) toe walking in a moderately poisoned Minamata child (34); (f) poor coordination and clumsiness among victims of acrodynia (45); (g) rocking among infants with acrodynia (11); and (h) unusual postures observed in both acrodynia and mercury vapor poisoning (11,31). The presence of flapping motions in both diseases is of interest because it is such an unusual behavior that it has been recommended as a diagnostic marker for autism (46).

Virtually all ASD subjects show a variety of sensory abnormalities (2). Auditory deficits are present in a minority of individuals and can range from mild to profound hearing loss (2,47). Over- or under-reaction to sound is nearly universal (2,48), and deficits in language comprehension are often present (3). Pain sensitivity or insensitivity is common, as is a general aversion to touch; abnormal sensation in the extremities and mouth may also be present and has been detected even in toddlers under 12 months old (2,49). There may be a variety of visual disturbances, including sensitivity to light (2,50,51,52). As in autism, sensory issues are reported in virtually all instances of Hg toxicity (40). HgP can lead to mild to profound hearing loss (40); speech discrimination is especially impaired (9,34). Iraqi babies exposed prenatally showed exaggerated reaction to noise (23), while in acrodynia, patients reported noise sensitivity (45). Abnormal sensation in the extremities and mouth is the most common sensory disturbance (25,28). Acrodynia sufferers and prenatally exposed Iraqi babies exhibited excess pain when bumping limbs and an aversion to touch (23,24,45,53). A range of visual problems has been reported, including photophobia (18,23,24).

Comparison of biological abnormalities

The biological abnormalities commonly found in autism are listed in Table II, along with the corresponding pathologies arising from mercury exposure. Especially noteworthy similarities are described.

Autism is a neurodevelopmental disorder which has been characterized as ''a disorder of neuronal organization, that is, the development of the dentritic tree, synaptogenesis, and the development of the complex connectivity within and between brain regions'' (54). Depressed expression of neural cell adhesion molecules (NCAMs), which are critical during brain development for proper synaptic structuring, has been found in one study of autism (55). Organic mercury, which readily crosses the blood-brain barrier, preferentially targets nerve cells and nerve fibers (56); primates accumulate the highest Hg-levels in the brain relative to other organs (40). Furthermore, although most cells respond to mercurial injury by modulating levels of glutathione (GSH), metallothionein, hemoxygenase, and other stress proteins, neurons tend to be ''markedly deficient in these responses'' and thus are less able to remove Hg and more prone to Hg-induced injury (56). In the developing brain, mercury interferes with neuronal migration, depresses cell division, disrupts microtubule function, and reduces NCAMs (28,57–59).

While damage has been observed in a number of brain areas in autism, many nuclei and functions are spared (36). HgP's damage is similarly selective (40). Numerous studies link autism with neuronal atypicalities within the amygdala, hippocampi, basal ganglia, the Purkinje and granule cells of the cerebellum, brainstem, basal ganglia, and cerebral cortex (36,66–69). Each of these areas can be affected by HgP (10,34,40,70–73). Migration of Hg, including eHg, into the amygdala is particularly noteworthy, because in primates this brain region has neurons specific for eye contact (74) and it is implicated in autism and in social behaviors (65,66,75).

Autistic brains show neurotransmitter irregularities which are virtually identical to those arising from Hg exposure: both high or low serotonin and dopamine, depending on the subjects studied; elevated epinephrine and norepinephrine in plasma and brain; elevated glutamate; and acetylcholine deficiency in hippocampus (2,21,76–83).

Gillberg and Coleman (2) estimate that 35–45% of autistics eventually develop epilepsy. A recent MEG study reported epileptiform activity in 82% of 50 regressive autistic children; in another study, half the autistic children expressed abnormal EEG activity during sleep (84). Autistic EEG abnormalities

tend to be non-specific and have a variety of patterns (85). Unusual epileptiform activity has been found in a number of mercury poisoning cases (18,27,34,86–88). Early mHg exposure enhances tendencies toward epileptiform activity with a reduced level of seizure-discharge amplitude (89), a finding consistent with the subtlety of seizures in many autism spectrum children (84,85). The fact that Hg increases extracellular glutamate would also contribute to epileptiform activity (90).

Some autistic children show a low capacity to oxidize sulfur compounds and low levels of sulfate (91,92). These findings may be linked with HgP because (a) Hg preferentially binds to sulfhydryl molecules (-SH) such as cysteine and GSH, thereby impairing various cellular functions (40), and (b) mercury can irreversibly block the sulfate transporter NaSi cotransporter NaSi-1, present in kidneys and intestines, thus reducing sulfate absorption (93). Besides low sulfate, many autistics have low GSH levels, abnormal GSH-peroxidase activity within erythrocytes, and decreased hepatic ability to detoxify xenobiotics (91,94,95). GSH participates in cellular detoxification of heavy metals (96); hepatic GSH is a primary substrate for organic-Hg clearance from the human (40); and intraneuronal GSH participates in various protective responses against Hg in the CNS (56). By preferentially binding with GSH, preventing absorption of sulfate, or inhibiting the enzymes of glutathione metabolism (97), Hg might diminish GSH bioavailability. Low GSH can also derive from chronic infection (98,99), which would be more likely in the presence of immune impairments arising from mercury (100). Furthermore, mercury disrupts purine and pyrimidine metabolism (97,10). Altered purine or pyrimidine metabolism can induce autistic features and classical autism (2,101,102), suggesting another mechanism by which Hg can contribute to autistic traits.

Autistics are more likely to have allergies, asthma, selective IgA deficiency (sIgAd), enhanced expression of HLA–DR antigen, and an absence of interleukin-2 receptors, as well as familial autoimmunity and a variety of autoimmune phenomena. These include elevated serum IgG and ANA titers, IgM and IgG brain antibodies, and myelin basic protein (MBP) antibodies (103–110). Similarly, atypical responses to Hg have been ascribed to allergic or autoimmune reactions (8), and genetic predisposition to such reactions may explain why Hg sensitivity varies so widely by individual (88,111). Children who developed acrodynia were more likely to have asthma and other allergies (11); IgG brain autoantibodies, MBP, and ANA have been found in HgP subjects (18,111,112); and mice genetically prone to develop autoimmune diseases ''are highly susceptible to mercury-induced immunopathological alterations'' even at the lowest doses (113). Additionally, many autistics have reduced natural killer cell (NK) function, as well as immune-cell subsets shifted in a Th2 direction and increased urine neopterin levels, indicating immune system activation (103,114–116). Depending upon genetic predisposition, Hg can induce immune activation, an expansion of Th2 subsets, and decreased NK activity (117–120).

Population characteristics

In most affected children, autistic symptoms emerge gradually, although there are cases of sudden onset (3). The earliest abnormalities have been detected in 4 month olds and consist of subtle movement disturbances; subtle motor-sensory disturbances have been observed in 9 month olds (49). More overt speech and hearing difficulties become noticeable to parents and pediatricians between 12 and 18 months (2). TMS vaccines have been given in repeated intervals starting from infancy and continuing until 12 to 18 months. While HgP symptoms may arise suddenly in especially sensitive individuals (11), usually there is a preclinical ''silent stage'' in which subtle neurological changes are occurring (121) and then a gradual emergence of symptoms. The first symptoms are typically sensory- and motor-related, which are followed by speech and hearing deficits, and finally the full array of HgP characteristics (40). Thus, both the timing and nature of symptom emergence in ASD are fully consistent with a vaccinal Hg etiology. This parallel is reinforced by parental reports of excessive amounts of mercury in urine or hair from younger autistic children, as well as some improvement in symptoms with standard chelation therapy (122).

The discovery and rise in prevalence of ASD mirrors the introduction and spread of TMS in vaccines. Autism was first described in 1943 among children born in the 1930s (123). Thimerosal was first introduced into vaccines in the 1930s (7). In studies conducted prior to 1970, autism prevalence was estimated, at 1 in 2000; in studies from 1970 to 1990 it averaged 1 in 1000 (124). This was a period of increased vaccination rates of the TMS-containing DPT vaccines among children in the developed world. In the early 1990s, the prevalence of autism was found to be 1 in 500 (125), and in 2000 the CDC found 1 in 150 children affected in one community, which was consistent with reports from other areas in the country (126). In the late 1980s and early 1990s, two new TMS vaccines, the HIB and Hepatitis B, were added to the recommended schedule (7).

Nearly all US children are immunized, yet only a small proportion develop autism. A pertinent characteristic of mercury is the great variability in its effects by individual, so that at the same exposure level, some will be affected severely while others will be asymptomatic (9,11,28). An example is acrodynia, which arose in the early 20th Century from mercury in teething powders and afflicted only 1 in 500-1000 children given the same low dose (28). Studies in mice as well as humans indicated that susceptibility to Hg effects arises from genetic status, in some cases including a propensity to autoimmune disorders (113,34,40). ASD exhibits a strong genetic component, with high concordance in monozygotic twins and a higher than expected incidence among siblings (4); autism is also more prevalent in families with autoimmune disorders (106).

Additionally, autism is more prevalent among boys than girls, with the ratio estimated at 4:1 (2). Mercury studies in mice and humans consistently report greater effects on males than females, except for kidney damage (57). At high doses, both sexes are affected equally; at low doses only males are affected (38,40,127).

DISCUSSION

We have shown that every major characteristic of autism has been exhibited in at least several cases of documented mercury poisoning. Recently, the FDA and AAP have revealed that the amount of mercury given to infants from vaccinations has exceeded safety levels. The timing of mercury administration via vaccines coincides with the onset of autistic symptoms. Parental reports of autistic children with measurable mercury levels in hair and urine indicate a history of mercury exposure. Thus the standard primary criteria for a diagnosis of mercury poisoning—observable symptoms, known exposure at the time of symptom onset, and detectable levels in biologic samples (11,31)—have been met in autism. As such, mercury toxicity may be a significant etiological factor in at least some cases of regressive autism. Further, each known form of HgP in the past has resulted in a unique variation of mercurialism—e.g., Minamata disease, acrodynia, Mad Hatter's disease—none of which has been autism, suggesting that the Hg source which may be involved in ASD has not yet been characterized; given that most infants receive eHg via vaccines, and given that the effect on infants of eHg in vaccines has never been studied (129), vaccinal thimerosal should be considered a probable source. It is also possible that vaccinal eHg may be additive to a prenatal mercury load derived from maternal amalgams, immune globulin injections, or fish consumption, and environmental sources.

CONCLUSION

The history of acrodynia illustrates that a severe disorder, afflicting a small but significant percentage of children, can arise from a seemingly benign application of low doses of mercury. This review establishes the likelihood that Hg may likewise be etiologically significant in ASD, with the Hg derived from thimerosal in vaccines rather than teething powders. Due to the extensive parallels between autism and HgP, the likelihood of a causal relationship is great. Given this possibility, TMS should be removed from all childhood vaccines, and the mechanisms of Hg toxicity in autism should be thoroughly investigated. With perhaps 1 in 150 children now diagnosed with ASD, development of HgP-related treatments, such as chelation, would prove beneficial for this large and seemingly growing population.

TABLE I: SUMMARY COMPARISON OF TRAITS OF AUTISM & MERCURY POISONING

(**ASD references in bold;** *HgP references in italics*)

Psychiatric Disturbances
Social deficits, shyness, social withdrawal (**1,2,130,131**; *21,31,45,53,132)*
Repetitive, perseverative, stereotypic behaviors; obsessive-compulsive tendencies (**1,2,43,48,133**; *20,33-35,132)*
Depression/depressive traits, mood swings, flat affect; impaired face recognition (**14,15,17,103, 134,135**; *19,21,24,26,31)*
Anxiety; schizoid tendencies; irrational fears (**2,15,16**; *21,27,29,31)*
Irritability, aggression, temper tantrums (**12,13,43**; *18,21,22,25)*
Lacks eye contact; impaired visual fixation (HgP)/ problems in joint attention (ASD) (**3,36,136,137**; *18,19,34)*
Speech and Language Deficits
Loss of speech, delayed language, failure to develop speech (**1-3,138,139**; *11,23,24,27,30,37)*
Dysarthria; articulation problems (**3**; *21,25,27,39)*
Speech comprehension deficits (**3,4,140**; *9,25,34,38)*
Verbalizing and word retrieval problems (HgP); echolalia, word use and pragmatic errors (ASD) (**1,3,36**; *21,27,70)*
Sensory Abnormalities
Abnormal sensation in mouth and extremities (**2,49**; *25,28,34,39)*
Sound sensitivity; mild to profound hearing loss (**2,47,48**; *19,23-25,39,40)*
Abnormal touch sensations; touch aversion (**2,49**; *23,24,45,53)*
Over-sensitivity to light; blurred vision (**2,50,51**; *18,23,31,34,45)*
Motor Disorders
Flapping, myoclonal jerks, choreiform movements, circling, rocking, toe walking, unusual postures (**2,3,43,44**; *11,19,27,30,31,34,39)*
Deficits in eye-hand coordination; limb apraxia; intention tremors (HgP)/problems with intentional movement or imitation (ASD) (**2,3,36,181**; *25,29,32,38,70,87)*
Abnormal gait and posture, clumsiness and incoordination; difficulties sitting, lying, crawling, and walking; problem on one side of body (**4,41,42,123**; *18,25,31,34,39,45)*
Cognitive Impairments
Borderline intelligence, mental retardation – some cases reversible (**2,3,151,152**; *19,25,31,39,70)*
Poor concentration, attention, response inhibition (HgP)/shifting attention (ASD) (**4,36,153**; *21,25,31,38,141)*
Uneven performance on IQ subtests; verbal IQ higher than performance IQ (**3,4,36**; *31,38)*
Poor short term, verbal, and auditory memory (**36,140**; *21,29,31,35,38,87,141)*
Poor visual and perceptual motor skills; impairment in simple reaction time (HgP)/ lower performance on timed tests (ASD) (**4,140,181**; *21,29,142)*
Deficits in understanding abstract ideas & symbolism; degeneration of higher mental powers (HgP)/sequencing, planning & organizing (ASD); difficulty carrying out complex commands (**3,4,36,153**; *9,18,37,57,142)*
Unusual Behaviors
Self injurious behavior, e.g. head banging (**3,154**; *11,18,53)*
ADHD traits (**2,36,155**; *35,70)*
Agitation, unprovoked crying, grimacing, staring spells (**3,154**; *11,23,37,88)*
Sleep difficulties (**2,156,157**; *11,22,31)*

Physical Disturbances
Hyper- or hypotonia; abnormal reflexes; decreased muscle strength, especially upper body; incontinence; problems chewing, swallowing (**3,42,145,181**; *19,27,31,32,39)*
Rashes, dermatitis, eczema, itching (**107,146**; *22,26,143)*
Diarrhea; abdominal pain/discomfort, constipation, "colitis" (**107,147-149**; *18,23,26,27,31,32)*
Anorexia; nausea (HgP)/vomiting (ASD); poor appetite (HgP)/restricted diet (ASD) (**2,123**; *18,22)*
Lesions of ileum and colon; increased gut permeability (**147,150**; *57,144)*

Table II: Summary Comparison of Biological Abnormalities

in Autism & Mercury Exposure

Mercury Exposure	Autism
Biochemistry	
Binds -SH groups; blocks sulfate transporter in intestines, kidneys (40,93)	Low sulfate levels (91,92)
Reduces glutathione availability; inhibits enzymes of glutathione metabolism; glutathione needed in neurons, cells, and liver to detoxify heavy metals; reduces glutathione peroxidase and reductase (97,100,161,162)	Low levels of glutathione; decreased ability of liver to detoxify xenobiotics; abnormal glutathione peroxidase activity in erythrocytes (91,94,95)
Disrupts purine and pyrimidine metabolism (10,97,158,159)	Purine and pyrimidine metabolism errors lead to autistic features (2,101,102)
Disrupts mitochondrial activities, especially in brain (160,163,164)	Mitochondrial dysfunction, especially in brain (76,172)
Immune System	
Sensitive individuals more likely to have allergies, asthma, autoimmune-like symptoms, especially rheumatoid-like ones (8,11,18,24,28,31,111,113)	More likely to have allergies and asthma; familial presence of autoimmune diseases, especially rheumatoid arthritis; IgA deficiencies (103,106-109,115)
Can produce an immune response in CNS; causes brain/MBP autoantibodies (18,111,165)	On-going immune response in CNS; brain/MBP autoantibodies present (104,105,109,110)
Causes overproduction of Th2 subset; kills/inhibits lymphocytes, T-cells, and monocytes; decreases NK T-cell activity; induces or suppresses IFNg & IL-2 (100,112,117-120,166)	Skewed immune-cell subset in the Th2 direction; decreased responses to T-cell mitogens; reduced NK T-cell function; increased IFNg & IL-12 (103,108,114-116,173,174)
CNS Structure	
Selectively targets brain areas unable to detoxify or reduce Hg-induced oxidative stress (40,56,161)	Specific areas of brain pathology; many functions spared (36)
Accummulates in amygdala, hippocampus, basal ganglia, cerebral cortex; damages	Pathology in amygdala, hippocampus, basal ganglia, cerebral cortex; damage to Purkinje

Purkinje and granule cells in cerebellum; brain stem defects in some cases (10,34,40,70-73)	and granule cells in cerebellum; brain stem defects in some cases (36,60-69)
Causes abnormal neuronal cytoarchitecture; disrupts neuronal migration, microtubules, and cell division; reduces NCAMs (10,28,57-59,161)	Neuronal disorganization; increased neuronal cell replication, increased glial cells; depressed expression of NCAMs (4,54,55)
Progressive microcephaly (24)	Progressive microcephaly and macrocephaly (175)
Neuro-chemistry	
Prevents presynaptic serotonin release and inhibits serotonin transport; causes calcium disruptions (78,79,163,167,168)	Decreased serotonin synthesis in children; abnormal calcium metabolism (76,77,103,179)
Alters dopamine systems; peroxidine deficiency in rats resembles mercurialism in humans (8,80)	Either high or low dopamine levels; positive response to peroxidine, which lowers dopamine levels (2,177,178)
Elevates epinephrine and norepinephrine levels by blocking enzyme that degrades epinephrine (81,160)	Elevated norepinephrine and epinephrine (2)
Elevates glutamate (21,171)	Elevated glutamate and aspartate (82,176)
Leads to cortical acetylcholine deficiency; increases muscarinic receptor density in hippocampus and cerebellum (57,170)	Cortical acetylcholine deficiency; reduced muscarinic receptor binding in hippocampus (83)
Causes demyelinating neuropathy (22,169)	Demyelination in brain (105)
Neurophysiology	
Causes abnormal EEGs, epileptiform activity, variable patterns, e.g., subtle, low amplitude seizure activities (27,31,34,86-89)	Abnormal EEGs, epileptiform activity, variable patterns, including subtle, low amplitude seizure activities (2,4,84,85)
Causes abnormal vestibular nystagmus responses; loss of sense of position in space (9,19,34,70)	Abnormal vestibular nystagmus responses; loss of sense of position in space (27,180)
Results in autonomic disturbance: excessive sweating, poor circulation, elevated heart rate (11,18,31,45)	Autonomic disturbance: unusual sweating, poor circulation, elevated heart rate (17,180)

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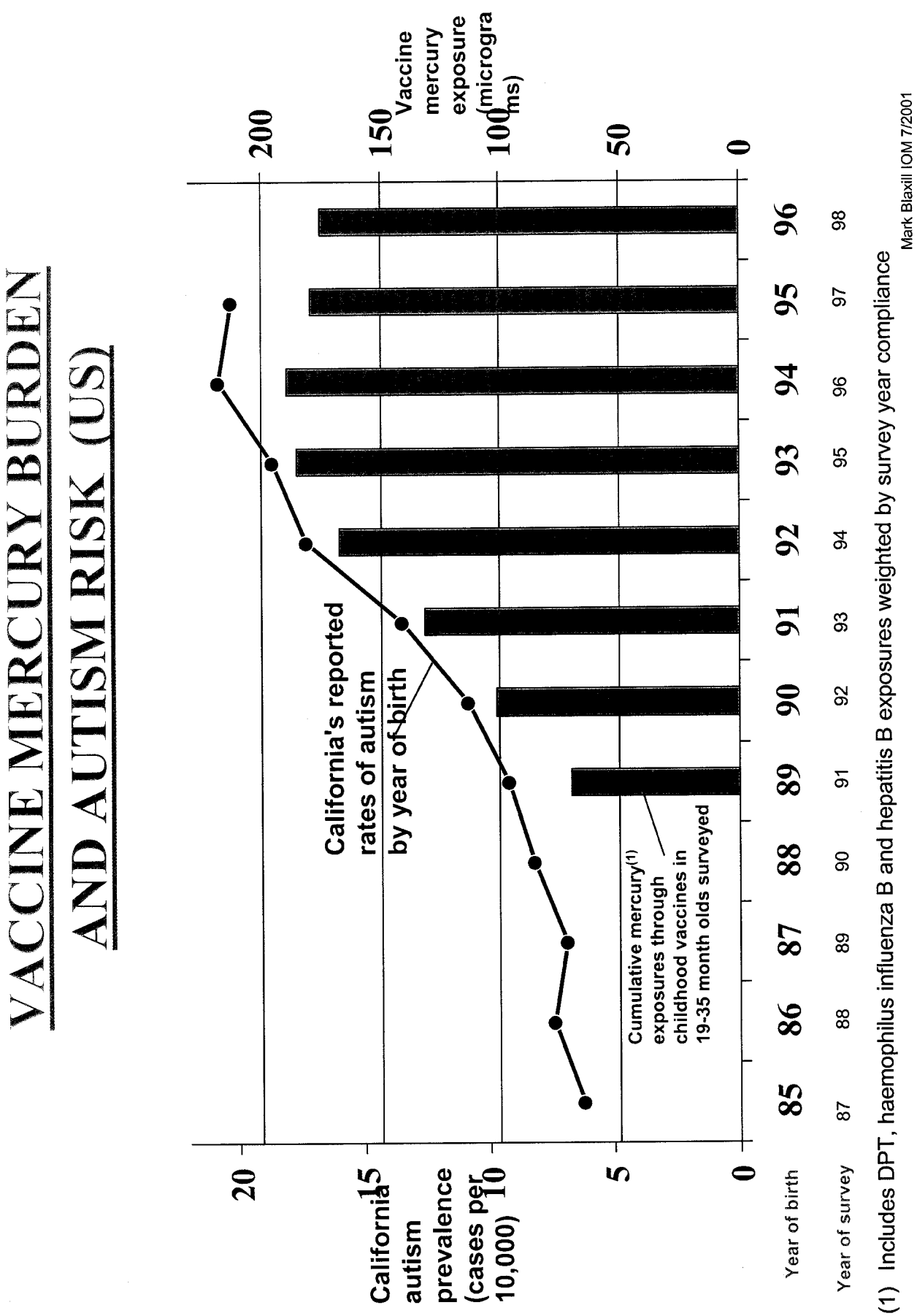

(1) Includes DPT, haemophilus influenza B and hepatitis B exposures weighted by survey year compliance

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the original request of the gentleman from Texas?

Mr. OBEY. Mr. Speaker, reserving the right to object, I know concern has been expressed that if a Member objects to this motion today that somehow that will endanger the homeland security bill. I do not believe that to be the case at all, because nothing is more pitiful than a flock of politicians in full flight, and the fact is that politicians are scared green to vote against this legislation, despite the fact that it is masquerading as something that it most surely is not.

I thank the gentleman from Texas, because the gentleman has played a constructive role in improving the bill considerably than the one originally brought down from the White House, but I question the assumption that if an objection is lodged today that somehow this bill will not pass. Because, in my judgment, any bill labeled homeland security is going to pass, regardless of what is in it because politicians are afraid to look at the details, and they are afraid to go to the public with the details.

But, in fact, if we take a look at this legislation, and I want to state explicitly I am opposed to this legislation as it now stands. The major reason I am opposed to it is because of what it does to our ability to defend the homeland. Now we certainly do need a reorganization, but the fact is that we did not reorganize the Pentagon during World War II, we waited until the war was over because we recognized that there would be incredible turmoil associated with trying to reorganize the military during a war.

Well, we are in a war now, and the fact is that, despite the fact that we are in a war against terrorism, we are simply going to see thousands of bureaucrats over the next 2 or 3 or 4 years be focused on where their new offices are, where their desks are, who is their new boss, how they are going to get along with their boss, and I think it is going to create substantial vulnerability during that window of time.

I am not all that panicked about when this reorganization passes. What I am almost panicked about is the fact that this reorganization will move the boxes without putting the resources necessary into homeland security to actually see to it that these agencies can do their jobs.

Example, we are still substantially underfunding the FBI's computer system. Example, we are not doing nearly what is necessary to protect our ports from the kind of terrorist attacks that could befall us at any moment. Example, we are not doing nearly enough to deal with the problems that we have on the Canadian border. And there are many other examples of financial shortcomings that we have in our homeland security effort.

All Members have to do is look at the comments of the Secretary of Energy and his plea to OMB to provide additional resources to deal with radioactive material. I think there are plenty of solid reasons to question the lack of content in this homeland security reorganization package.

This is not a homeland security bill. This is a homeland security agency reorganization, but it will not be made effective policy until dollars are put into these agencies to meet the challenges that we have been told by the people who run these agencies must be met if they are to do their jobs. I think, therefore, that it would not be a bad thing if we had more time to deal with this issue to actually put the resources in that are needed.

But, even getting beyond that, I want to suggest that there are several other reasons why the public interest is not served by passage of this bill. The gentleman from Indiana (Mr. BURTON) just cited one of them.

I find it ironic as I listened to him this morning that the first issue that I became involved in when I came to the Congress a long time ago was the issue of mercury poisoning. I remember Wright Patman from Texas also being concerned about the issue at that time. I do not know what the facts are with respect to the mercury issue that the gentleman from Indiana raised this morning, but I do know that provision insulating the drug companies on that issue has no blessed business being in this bill.

Mr. Speaker, I suppose in a way this bill is a fitting end to this Congress. It is a shameful end to a pitiful and neglectful Congress, so I suppose it is a fitting emblem to summarize the work of this institution over the past 2 years.

□ 1200

But I find it outrageous that the Congress is going to find room in its heart to help the poor downtrodden drug companies on the issue just mentioned by the gentleman from Indiana but will not find room in their hearts to deal with the problems of the long-term unemployed.

I have a very simple question that I will ask the majority leader at the end of my comments, and I will let him know ahead of time what it is going to be. My question is, if I withdraw my objection to consideration of the technical amendments to this bill, would the majority party leadership allow a motion to allow H.R. 3529 to come before this body, which is Senator NICKLES' proposal on unemployment compensation? Or would they allow it to come to the floor in the compromise form that I am told Senator NICKLES and Senator DASCHLE indicated they would agree to yesterday in an effort to try to salvage something for the unemployed at the Christmas season?

The problem is that without action on unemployment compensation to extend the Federal program, 830,000 people will be cut out of unemployment benefits on December 28, a belated Christmas present from a very comfortable and neglected Congress, and yet every week after that, an additional 95,000 people will lose State unemployment pension benefits. And that will happen because of a disagreement within the Republican Party about how to handle the unemployment compensation proposal. As I understand it, the Senate proposed a bill in the form of their amendment to H.R. 3529 which would extend temporary Federal benefits to March 29, a 3-month bridge. The House Republican leadership, I understand, has been insisting that they will stick to the House-passed bill, which provides relief for only three States, Washington, Oregon and Alaska, for a very short period of time.

The Senate, in an effort to compromise, I am told, had agreed to cut back the extension in their proposal to 2 months, and when the House GOP leadership objected, according to the reports that I have seen in the paper, then the Senate leadership agreed to cut back their proposal to a 1-month extension, and still we are told that the House Republican chairman of the committee of jurisdiction objected even to that compromise proposal. So the Congress is here insisting on playing Scrooge at Christmas time when we ought to be showing a little mercy.

I do not understand that kind of logic. I do not understand that kind of priorities. If you take a look at the bill to which we are asked to provide unanimous consent this morning, not only does it contain the special favor to the drug industry that does not belong in the bill, it also relaxes a ban on the issuance of homeland security contracts to companies that establish foreign tax havens in order to avoid U.S. taxes. That is also outrageous.

So we have room to allow corporations to change their mailing address to Bermuda so they can avoid pulling their fair share of the load for the expenses incurred by the United States Government in defending those corporations and everyone else in this society, but we do not have enough room to take care of the unemployed workers who are stuck here without jobs at home. That is to me an incredible contrast in what this House is willing to allow and what it is not.

I frankly do not know what I should do at this point, because I am told that if I refuse to withdraw my objection, that all that will happen is that the House will come back and they will pass this bill and the House Republican leadership will still do nothing on the unemployment compensation front. So I am not quite sure what the right course of action is to take at this point. But at this point, I would ask the majority leader whether or not if I withdraw my objection to the motion pending, the House Republican leadership would allow H.R. 3529 to also be brought up under unanimous consent so that we can provide the additional

unemployment compensation that was attempted by the other body?

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. ARMEY. Let me thank the gentleman from Wisconsin for his remarks, Mr. Speaker, and let me say to the gentleman that it has been very difficult business clearing bills for unanimous consent in this final day. This is the only business that is cleared for consideration today.

However, let me say, I too, as the gentleman from Wisconsin most certainly did, watched the final day's proceedings in the other body, saw the reports, the discussions, noted that the other body did not indeed pass from its own Chamber the compromise the gentleman speaks of today, but found myself reassured that the current extension of unemployment benefits under which the Nation operates today will extend benefits to today's unemployed through January 11. I understand from the discussions I have heard among Senators and leaders of the Senate that there is an intention when the Senate reconvenes in the next Congress to take up this issue of the need for an additional extension at that time, and should they do so at that time, it is my understanding that the people who would be covered by such an extension would find their unemployment compensations uninterrupted.

So I would refer the gentleman to those discussions I have seen in anticipation of the gentleman's ability to address this in the opening of the next Congress.

Mr. OBEY. Continuing under my reservation, Mr. Speaker, is the gentleman saying that the Senate did not pass its version of the unemployment compensation bill? My understanding is that the Senate version is at the desk.

Mr. ARMEY. If the gentleman will continue to yield, and again, let me thank the gentleman, it is my understanding that the compromise of which he spoke today was not passed out of the Senate.

Mr. OBEY. Taking back my time, but it is my understanding that the Senate did pass the Nickles proposal, which is a 3-month extension, and that H.R. 3529, as amended, is at the desk.

Mr. ARMEY. Again, if the gentleman will continue to yield, obviously I can only tell him what I know from having watched the Senate in action, listening to the debates on the other body's floor and news accounts from leaders of the other body that there were ongoing discussions. I, for example, heard Senator LOTT, the current minority leader, say that he intended to address that when the next Congress reconvenes. That is frankly, I am sorry, all that I can report to the gentleman.

Mr. OBEY. Taking back my time, I am informed that H.R. 3529 is at the desk, so all we would have to do to solve this problem is to take that bill up immediately and pass it.

Mr. ARMEY. Again, if the gentleman will continue to yield, the gentleman, of course, is aware of the fact that the majority leader does not by himself clear legislation for unanimous consent. As we see even by the presence of Members here on the floor, every Member is entitled to have their speech. No such bill is cleared. It is my understanding that no such bill would be cleared for available discussion at this time.

Mr. LEVIN. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Under my reservation, I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Speaker, there is a reference to January 11. That is the date of the continuing resolution. But is it not clear that if we do not act today, that December 28 will be the cutoff date for 800,000-plus unemployed workers in terms of their extended benefits?

Mr. OBEY. Absolutely. As I said, a belated Christmas present to those who need help the most.

Mr. LEVIN. And is it not also true that after that, every week there will be over 90,000 more people who will be denied benefits?

Mr. OBEY. That is correct. I guess the congressional slogan would be, ''Have a worried Christmas and an unhappy New Year.''

Mr. LEVIN. So I would like to ask, if I might, to the distinguished majority leader through the gentleman from Wisconsin, is it not correct that the Senate bill is at the desk and that if one of us were allowed to offer a unanimous consent motion, that it be taken from the desk and you do not object, that it could be passed by the House today?

Mr. ARMEY. If the gentleman from Wisconsin will continue to yield, let me say to the gentleman from Michigan that there are a large number of bills available at the desk, none of which have been cleared for consideration by unanimous consent today. That bill from the other body may be one of them. But the process by which we clear bills for unanimous consent is a very long and elaborate process where in effect every Member of this body is consulted. It would be, it is, impossible to clear such a bill as that with Members traveling abroad. I do appreciate your sense of urgency, but the fact of the matter is I am assured that when the next Congress convenes, that those people who are covered by the current extension of unemployment benefits and who would be covered by any additional extension of unemployment benefits would be able to receive their compensation flow in an uninterrupted fashion through this period of time.

Again, if I may remind both the gentleman from Wisconsin and the gentleman from Michigan, I have been aware of the discussions that have gone on by the leaders of the other body, I do not know what discussions they may or may not have had with the Speaker or the future leaders of this body, but I profoundly believe that the next opportunity that this body will have to address this issue would be in reconvening the body in its new session of Congress after the 3rd or 4th of January.

Mr. LEVIN. If the gentleman will continue to yield so that this is clarified, is it not correct, I ask the gentleman from Wisconsin, and I say this respectfully to the gentleman from Texas, December 28 is a cutoff date, and people thereafter lose their benefits. Therefore, to say that we will come back here several weeks later is not an answer to the 800,000-plus people who will lose their benefits, is that not correct?

Mr. OBEY. Well, of course it is no answer.

Mr. LEVIN. Mr. Speaker, the gentleman from Wisconsin has been here a long time, including when we were in the majority. What does it mean that a bill has not been cleared for passage? It is at the desk, is it not? And if a unanimous consent is requested and not objected to, the bill becomes law like the homeland security bill if you do not object?

Mr. OBEY. Exactly, with one critical difference. The difference is that the people who are going to be helped by the unemployment compensation extension if we get our way, they need that help immediately. That is an immediate crisis for them. Whereas with the homeland security bill, this is simply a reorganization of boxes that will begin to take place sometime next year. And, I would point out, they do not even have a building selected yet where the new agency is going to be located.

So there is no immediate action that would be prevented by the delay in the passage of homeland security, but there most certainly is an immediate consequence of not taking up an extension of unemployment benefits for those almost million souls who need help.

Mr. LEVIN. So, in a word, I think it is correct to talk about, when we come back, is an empty promise for hundreds and hundreds of thousands of people, unemployed through no fault of their own.

□ 1215

We have had a prayer for Thanksgiving, and this is the answer from the majority here to hundreds of thousands of Americans, and then Christmas comes December 25. Three days later, hundreds of thousands of people lose their benefits. And again I just want the gentleman to state from his experience here, longer than mine, the bill is at the desk. All it takes is the nonobjection of the majority and the bill that passed unanimously on a bipartisan basis in the Senate will become law, is that not correct?

Mr. OBEY. Mr. Speaker, as a practical matter, the only thing that stands between providing these needed

unemployment benefits, the only thing that stands between our doing that is the refusal to approve bringing the bill up by the House Republican leadership and the House Republican committee chairman.

Mr. LEVIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

I rise because I agree with the gentleman from Wisconsin (Mr. OBEY) on both counts. I had a new granddaughter on July 26 of this year. As a result, I was unable to be on the floor to participate and debate when we passed the homeland security legislation. I voted, however, and voted against it when it came up for a vote just a few weeks ago. I voted against it again for exactly the reasons that the gentleman from Wisconsin has articulated.

I believe, unfortunately, it is a false promise. It is a promise that we will affect, by passage of this legislation, security for our homeland. In fact, as the gentleman from Wisconsin has said, what we will do is divert the eyes and attention and focus of those who work in the agencies that are to be reorganized from without, from the threat from the terrorists who would harm our people and our land and divert that to their internal concerns, again, as the gentleman from Wisconsin said, as to where their desks will be located, whether they will have the corner office, whether they will be a supervisor, all of the issues that will be involved with reorganization.

I make the analogy to a family that is going to move and they are worried about packing up the boxes in their house; and their focus, of course, is on those boxes and what items go in what box. They are not looking outside their house. So that if a terrorist should come or somebody should be outside their house, they may miss because of their focus inward.

This bill, however, seeks to secure. It seeks to make our homeland more secure. And there are 435 Members of this body who are absolutely, irrevocably, and passionately committed to that objective. There is no one in this House who is not for ensuring the safety of our people and the security of our homeland. However, we are also concerned about the security of our families. We are concerned about the security of our workers. We are concerned about those 2.1 million people who are going to be put at risk as a result of the failure to pass the unemployment extension.

What we are asking the majority party to do is not unusual, as I am sure the majority leader knows. In the course of the 1982 recession, under President Reagan we extended unemployment insurance for over 30 weeks. When we again had a recession in 1991 under the first President Bush, we extended unemployment benefits for more than 30 weeks. In this recession, however, we have extended them for less than 10. That puts individuals at risk.

I understand the concerns of the gentleman from Wisconsin about objecting to the passage of this legislation because, unfortunately, we have seen in this Congress that reaching bipartisan agreement is very difficult. The Senate has sent us a bill, passed unanimously. All the Republicans, all the Democrats voted for that piece of legislation. It sits on the desk.

The majority leader makes the observation that we do not have an agreement. We could get that agreement, I suggest to the majority leader respectfully. But, furthermore, I point out to the majority leader when this House adjourns sine die tonight or today, if that is the course of action we pursue, that bill will die. It will no longer be available to us, and on December 28 the unemployment extension will end. Eight hundred thousand people will go off the rolls. I do not know exactly how many families that is. There are perhaps two people on unemployment in one family, but it is certainly hundreds of thousands of families that would be put at risk. And as the gentleman from Michigan (Mr. LEVIN) has pointed out, 90,000 every week will be added to those rolls.

I think the gentleman from Wisconsin (Mr. OBEY) is probably correct, and the leader is probably correct. Even if we objected, the majority has indicated it does not intend to act. So the only consequence would be the failure of this bill to pass, not the relief to those unemployed workers and their families. It would not solve their angst as they come towards Christmas nor will it solve the problem of those who will enter the new year without support.

I thank the gentleman for yielding. I would urge, in conclusion, the majority leader to reconsider. We have time. We could pass this bill in literally minutes. I cannot believe that all of us in this House do not want to secure those individuals and those families who through no fault of their own but the economic downturn that has occurred in this country have been placed in a position of having no job, no support for themselves, their families.

I would hope that the majority leader would consult with the Speaker, with the majority whip, with the chairman of the Committee on Ways and Means, and say to them, it is the right thing to do. We ought to pass this legislation. Our homeland needs to be secure, but our families and workers need to be secure as well.

Mr. OBEY. Mr. Speaker, continuing under my reservation, I would ask the majority leader another question. Would he be willing to recess the House in order to check once again with the rest of his leadership to determine whether or not they would allow H.R. 3529 extending unemployment compensation benefits, the bill which is now at the desk having been received from the Senate, whether they would be willing to allow that bill to be reconsidered yet today?

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. OBEY) once again for his inquiry. Let me just say to the gentleman from Wisconsin, if I were willing to comply with his request, I can assure the gentleman it would be of no avail for any action today or in the foreseeable future.

I am sorry the gentleman from Maryland (Mr. HOYER) has left the floor. One of the privileges I have had for some time is to go through the very painstaking process of helping Members on both sides of the aisle clear bills for unanimous consent. It is, I can say, a rigorous process of respect for the fundamental right of each and every Member of this body to raise their objection and to be informed of the option before there is any scheduling of the bill. It would be virtually impossible for me to give that respect to each and every Member of this body, and as the majority leader who has protected the rights of the Members in these matters on both sides of the aisle with rigor and I might say deep affection for the Member and their right, I would be constrained to make an objection on behalf of those Members.

I would hope that the gentleman from Wisconsin would understand, appreciate the situation and not place me in that untenable situation. Because, quite frankly, the Members' rights in this body are a matter of profound concern to all of us; and their rights have been something that I believe and hope I have attended to with respect and thoroughness.

I thank the gentleman for yielding.

Mr. OBEY. Mr. Speaker, I thank the gentleman. I would simply say I respect very much the majority leader's determination protecting the rights of each individual Member of this body, but I also think those Members have obligations.

I am here today because I have serious reservations about proceeding without dealing with the problems of the unemployed, and if there are other Members who are opposed to dealing with the problems of the unemployed, then they ought to be here to express those objections. I continue to be frustrated by the fact that they are not.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield under his reservation?

Mr. OBEY. Mr. Speaker, under my reservation, I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Wisconsin (Mr. OBEY) for yielding.

I want to associate myself with the words spoken earlier on the floor regarding the majority leader, and that is to thank him for his work on homeland security and noting in particular that, in his service on that committee,

he did reach out to members from all of the committees of jurisdiction and was concerned that we did put in place an entity that could work and provide the security for this Nation.

I thought I had said farewell to the gentleman a few days ago, but let me say it again to my friend, and I look forward to his great service that will come.

I come to that floor in that spirit, because yesterday I had about 50 parents and teachers who had a chance to glimpse the floor of the House, and we were not in session, from the Houston Independent School District North Central Division, and I said this is a place of problem solvers. When we find a problem, we work on solving it.

To the majority leader I would simply say, in joining with my colleagues, that I am dismayed on two reasons of this legislation. I happen to be an advocate, and the gentleman knows that we have all said we stand shoulder to shoulder with the President on fighting terrorism. There is no line of difference between Democrats and Republicans on this issue. But I do come from a community that has found its own troubles, and that is Houston and the collapse of Enron and the high unemployment, the laid-off workers that are still in dire conditions, foreclosures, children who are leaving college because of the very sad conditions they found themselves in, high unemployment.

So to come to the point where we are able to pass H.R. 3529, that it is at the desk, that we know for sure that the January 11 date of our reconvening will be long overdue in terms of the dealing with the 800,000 individuals, I am asking or indicating that I would hope that this would be an appropriate time to respond to those whose unemployment will cease, desist, and end. This is an appropriate time for us to be problem solvers for the 800,000 that will lose that unemployment resource on December 28.

I do want to note that I do not see a sense of opposition from the leader. I think we are talking about a procedural question, and I respect him for that, that every Member has a right to object. And there may be some who are not here who would find it offensive to help the unemployed or those who are the least of us, but I would venture to say and speculate, without having a poll, that we would probably have unanimous consent for every Member of Congress to understand that these are benefits which these working people have earned, that they have invested in, that they paid payroll taxes for and other aspects of their contributions. These are workers. These are not individuals to which we are handing out. These are actually workers.

So I, too, join in arguing for the passage of or the bringing to the floor of H.R. 3529 for its, I think, overall support that it would garner.

□ 1230

Let me finish by concluding or coming back to the homeland security legislation, of which I expect to be among my colleagues supportive as it moves forward, but opposed as it is presently structured. I think it is important to make that statement, because it seems that people were fearful of expressing a different point of view. I cannot imagine that we would put legislation forward that would hurt innocent victims, particularly families, as I heard the gentleman from Indiana (Mr. BURTON), my good friend, speak about the vaccine question. There was an incident that occurred in Austin, Texas where a family was so severely impacted by a tragedy that occurred with a vaccine given to their young child. So I think we are misdirected. I know where we are going: let them be free, let them put forward vaccines to protect us against bioweapons, but we are doing a wrong thing by eliminating the liability and not protecting Americans against wrong, if you will, incorrect formulas of vaccines that would injure or maim or kill. The same thing for airport technologies and antiterrorism technologies, but I want to focus on the vaccines.

So I would beg for those who think this is the right kind of bill, and there are many things that I could comment on; I hope that the immigration aspect that I am concerned about to the immigrants of America, I hope we will say that we are not accusing everybody of being a terrorist and that we will have distinctive functions under that particular department so that there are immigration services and others. I supported that.

I conclude on this note: I am hoping that as we further this, that H.R. 3529, I say to the leader, can be brought forward because I think the objectives are clearly silenced on this matter. I think that all of us conclude that we want to help the unemployed, the workers who have been working, and then I would say on matters regarding the vaccine, it is imperative that we revisit this question. I can just see an array of maimed and injured individuals that we are treating so poorly in the name of homeland security.

Then I would say, because the gentleman comes from that neck of the woods, Texas A&M, I know there have been some questions about that. I have a solution. Let us expand the opportunities for university centers. Let us make sure we have historically black colleges, Hispanic-serving colleges, and some of our friends around the country. This is an excellent idea, but let us expand it. I see the criteria does not name one university, so I am saying this is a good thing that we might do and we need to do it in the spirit of opening it up so that others can be engaged in this very important business.

Mr. Speaker, with that I conclude by expressing my hope that of course we can move forward on H.R. 3529.

Mr. OBEY. Mr. Speaker, continuing my reservation, what the response of the majority leader demonstrates to me is that in the mind of the Republican leadership of this House, it is perfectly all right to include in the homeland security bill a provision that stops lawsuits now pending in State courts regarding injuries that some people feel are caused by the preservative mentioned by the gentleman from Indiana (Mr. BURTON) in his comments. They feel evidently that it is all right to stop those lawsuits currently pending in court and require the families to instead start all over by going through a Federal compensation program. But it is not all right for us to try to deal with the problems of the unemployed. We must allow an additional 800,000 plus people to lose what meager income they have under unemployment, because of the priority warp that we hear from the other side of the aisle. I just find that amazing.

I would also say that I disagree with the gentlewoman from Texas in one respect: there is a very definite difference between the President and the Congress on homeland security, and the difference is that I have more than 100 pages that lay out the record of congressional efforts to add more money to homeland security above and beyond the amount requested by the President so that we can make this reshuffling of boxes meaningful and actually deliver some security product to the American people, rather than just a juggling of the administrative and bureaucratic boxes.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, one of the interesting aspects of this homeland security bill of which we speak is that if we ask the American people, what are the two agencies most responsible for homeland security, one looking overseas at terrorists and one looking at terrorists here in America, they would respond overwhelmingly: the Central Intelligence Agency and the Federal Bureau of Investigation. The irony is neither one of those agencies is included in this reorganization, neither are included in this department, and, therefore, will not be affected in any way by the passage or failure of this particular piece of legislation. I thank the gentleman.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to correct my statement because I think the gentleman made a very important point and I want to make sure that we know that we are in sync, and that is, I believe that we have said that we do not see a line of difference in fighting terrorism, that we are committed to fighting terrorism, but the gentleman is absolutely right that we have a large, gaping difference in the funding and the organizational structure which I wish we could have had more time to

really move beyond what the distinguished minority whip has said, just moving the boxes.

So I agree with the distinguished gentleman from Wisconsin. We are standing united on fighting terrorism, but there is an enormous amount of amendments and funding that we have argued for that we need to do, and I hope that we will see that forthcoming.

Mr. OBEY. Mr. Speaker, continuing under my reservation, I would simply say that I find it quaint indeed that somehow, those of us who have tried for over a year to do substantially more to beef up our financial efforts against terrorism that somehow, our raising questions about the organization of that effort somehow indicates that we do not care as much as the President of the United States about defending the homeland. We obviously do. But I would point out that the record demonstrates that as long ago as a year ago, the President resisted the efforts on a bipartisan basis that were made in the Congress to add $4 billion to the President's budget for homeland security operations, and in July of this year, he effectively vetoed about $3 billion in additional funding for homeland security efforts, and yet today, somehow, it is terribly urgent that the boxes be reorganized this month rather than next month.

Mr. Speaker, it has been made crystal-clear by the majority leader that in his words, it would be ''to no avail'' for us to ask that the House be recessed in order to try to gain approval of the majority leadership to proceed with the unemployment compensation legislation. So I guess what he is saying is that any effort to delay this bill, in an effort to accomplish that would be futile.

Ms. DELAURO. Mr. Speaker, I rise in opposition to this legislation. I was proud to serve with my colleagues on the committee charged with drafting the legislation creating the Department of Homeland Security. But this so-called ''compromise'' is loaded with special interest giveaways that will do nothing to enhance our Nation's security.

This legislation violates a compromise regarding the Freedom of Information Act, leaving in its place the giant loophole in the House bill. Under this bill, lobbyists could communicate with department staff without any public disclosure at all. They could even shield their clients from liability simply by mentioning incriminating information to department officials. This despite the fact that current law already includes exemptions for national security and trade secrets, exemptions that already work for the Justice and Defense Departments. We can't sacrifice our tradition of open government in the name of national security.

And as the author of the corporate inversion amendment that we passed by an overwhelming bi-partisan majority, I am outraged that the Republicans eviscerated provisions that would have prevented companies from receiving federal contracts if they move abroad to avoid paying U.S. taxes. Those restrictions would no longer apply to companies who have already moved overseas, leaving them with a permanent advantage over companies who have been good corporate citizens. And Republicans included a waiver that is so broad, they may as well have taken this provision out altogether.

Mr. Speaker, there is no more unpatriotic gesture for a U.S. corporation than renouncing their citizenship, yet this legislation—ignoring the clear intention of both chambers of Congress—rewards them with generous Federal contracts, doing so at the expense of good corporate citizens. That is shameful, pure and simple.

There are so many places where this bill goes wrong. It shields the pharmaceutical industry from liability if one of its vaccines kills or disables a patient. It creates a loophole that protects corporations from prosecution if they simply communicate incriminating information to Homeland Security staff. And it allows corporations who thumb their noses at our tax laws to profit off our homeland defense needs.

This so-called compromise is an insult to the Members of both parties who wanted to fashion a bill to create a strong Homeland Security Department and improve our national security. It is riddled with loopholes and giveaways, and I urge my colleagues to oppose it.

Mr. INSLEE. Mr. Speaker, today the United States Congress will send to the desk of the President of the United States for his signature, the Homeland Security bill. This bill will create the Department of Homeland Security, an agency charged with safeguarding Americans and the American way of life.

When enacting this bill, we must be careful not stray into invading American's privacy when using the regulatory tools provided for in this bill. I refer specifically to the vague authorizations in this bill that would give this new Federal agency broad authority to push the privacy envelope.

Section 201, paragraph 14, charges the Under Secretary for Information Analysis and Infrastructure with the responsibility of establishing a secure communications and information technology infrastructure that specifically authorizes the use of ''Data-mining.'' Since ''Data-mining'' has no statutory definition, I am concerned that we have not adequately established that the Department of Homeland Security does not have the green light to adopt an all encompassing program that invades the privacy of every American without their permission or knowledge. We were recently notified that former Rear Admiral John Poindexter is developing a Total Information Awareness program to monitor the everyday transactions of Americans. We cannot allow this to happen.

I do not believe that this statutory language is meant to allow the Federal Government to obtain whatever list, public, private, or commercial, to profile Americans. It is clear that the American public does reject this approach, as they soundly voiced their outrage for other privacy-eroding proposals such as the FBI's ''Carnivore'' system, and the Department of Justice ''TIPS'' program. It is vital that this body adopt standards to define such terms as ''data-mining,'' and to do so early in the 108th Congress. I thank the Speaker.

Mr. ARMEY. Mr. Speaker, I am proud that the House is today sending H.R. 5005, the Homeland Security Act of 2002 to the President. It is an important step forward in the defense of the Nation.

I would like to take this opportunity to discuss a few items of interest in the bill as amended by the Senate.

First, Mr. Speaker, I would like to address the privacy concerns that have been raised recently about provisions in the Homeland Security bill.

Le me be clear. This bill does not in any way authorize the Department of Defense program knows as ''Total Information Awareness.'' It does not authorize, fund or move into the Department anything like it. In fact, this bill provides unique statutory protections that will ensure the Department of Homeland Security could never undertake such a program.

Section 892 of our bill prohibits the sharing of any information that would undermine the statutory and constitutional protections of citizens. We also create a privacy officer, the first ever established by statute, whose sole mission will be to ensure that programs like TIA never get off the ground in this Department.

Our bill contains provisions that discontinue two programs that raise the very concerns that TIA has raised. We stop Operation TIPS, and ensure that nobody will use this bill as an excuse to implement a National ID card.

So the legislative intent of this bill is unmistakable. This department must protect the civil liberties that we all cherish.

I would like to further make it clear that references in the bill to data-mining are intended solely to authorize the use of advanced techniques to sift through existing intelligence data, not to open a new method of intruding lawful, everyday transactions of American citizens.

Second, Mr. Speaker, I want to explain the legislative intent of section 890 of H.R. 5710, the Homeland Security legislation which the House will give its final approval to today.

As the author of this section I would like to specify what this provision covers and what it is intended to do.

When Congress passed the Air Transportation Safety and System Stabilization Act (P.L. 107–42) it provided a cap on the potential liability of airlines and their agents for claims arising out of the September 11 attacks. At the time of the attacks, aviation passenger screening companies were the agents of the airlines. That is, they were under contract to perform these services and were, therefore, subject to the airlines' control, supervision and direction. According to all available evidence and after a thorough investigation of the facts, it is fair to say that no credible evidence has been uncovered to suggest that the majority of screening companies were in any way connected, culpable or otherwise derelict in their duty. Nonetheless, Congress determined that the traveling public would be better served and protected if the screening workforce was ''federalized.'' That transition from a purely private to a completely federal workforce was largely completed this past week on November 19.

A little more than two months after Congress passed the Stabilization Act we enacted and the President signed the Aviation and Transportation Security Act (P.L. 107–71). The measure expanded the list of private and governmental entities to be covered by the liability cap. However, in the same legislation the earlier protection afforded to the private screening companies was inexplicable stripped from the law without debate or a vote.

My provision, which was first included in H.R. 5005 and which now appears as Section 890 of the final version of this legislation is intended to restore the liability cap for certain eligible screening companies. As noted, not

every company will qualify for the cap. During debate in this chamber in July, members were very explicit in expressing concerns that certain companies should be excluded from the liability cap. My amendment does just that.

Indeed, my amendment is limited to those companies that had contracted with the Federal Aviation Administration but which had commenced services no later than February 17, 2002. The key and determining factor is when the screening services actually commenced regardless of the date on which the contract was actually executed. In addition, companies that had been debarred from doing business with the Federal Government for any period of time—even as little as a single day—within six months after February 17, 2002 would not be eligible under any circumstances for coverage under the cap. In the event a debarred company was subsequently reinstated as a government contractor, they still would not qualify for the cap.

Mr. Speaker, I believe my amendment accomplishes the clear intent of Congress when it passed the Stabilization Act last year. Private screening companies were in no better position to foresee or prevent the events of September 11 than any private or governmental entity. Therefore, fairness and equity demand that we restore the cap under specific terms and conditions. However, my amendment also responds to the concerns of members of this chamber. Indeed, let me repeat. The language in Section 890 makes explicitly clear that only those companies that are in good standing with the government as evidenced by the fact that a company commenced aviation passenger screening services for the government no later than February 17 of this year qualify for the cap. Further, a company would not be eligible if it had been debarred for any length of time within six months from that date.

Mr. Speaker, I trust my explanation will assist my colleagues to better understand the nature and purpose of my amendment.

Mr. OBEY. Mr. Speaker, I most regretfully withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER H.R. 3529, ECONOMIC SECURITY AND WORKER ASSISTANCE ACT OF 2001

Mr. LEVIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3529) to provide tax incentives for economic recovery and assistance to displaced workers, with a Senate amendment thereto, and concur in the Senate amendment.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive speakers and recorded on pages 712 through 713 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request to consider a House bill with a Senate amendment at the Speaker's table until it has been cleared by the bipartisan floor and committee leadership. Therefore, the Chair is unable to recognize the gentleman for that request.

PARLIAMENTARY INQUIRY

Mr. LEVIN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LEVIN. Mr. Speaker, I heard what the Speaker had to say, but I think I can indicate that the minority would be very pleased to bring this up and, therefore, I think what the Speaker's ruling is indicating is that the majority does not wish to proceed. I believe I can speak clearly, and maybe I should leave it to the gentleman from Maryland (Mr. HOYER), to say that the minority desires that this matter be brought up at this time, and I would, therefore, yield as part of my inquiry to Mr. HOYER.

The SPEAKER pro tempore. The gentleman may not yield to another Member on a parliamentary inquiry. The gentleman's statement, of course, will appear in the record.

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HOYER. If, in fact, under the rules I indicate on behalf of the minority that we have no objection to that unanimous consent request, what effect would that have?

The SPEAKER pro tempore. The Chair would read directly from page 713 of the House Rules Manual where it states that, ''It is not a proper parliamentary inquiry to ask the Chair to indicate which side of the aisle has failed under the Speaker's guidelines to clear a unanimous consent request. Therefore, the gentleman has not stated a proper parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HOYER. With all due respect, that was not my assertion, nor my question. My assertion was that in the event that I indicate to the Speaker that the minority side has no objection to the unanimous consent request propounded by the gentleman from Michigan to allow the unemployment extension bill to be immediately considered, would that have any effect under the rule?

The SPEAKER pro tempore. The Chair would repeat, once again, that under the clear precedents of the House, it is required that any measure such as that be cleared by the bipartisan floor and committee leadership going back to precedent established under Speaker O'Neill. It must be a bipartisan floor and committee leadership approval process.

PARLIAMENTARY INQUIRY

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman from Texas will state it.

Ms. JACKSON-LEE of Texas. Is it appropriate, Mr. Speaker, to inquire whether the congressional letter gathering a number of Members addressed to the Speaker of the House has been submitted into the RECORD asking for H.R. 3529 to be passed by unanimous consent, a letter that was directed by the gentleman from Ohio (Mr. STRICKLAND), has that been presented to the House or to the RECORD of the House at this time?

The SPEAKER pro tempore. The Chair has no specific knowledge. Of course, any Member may ask unanimous consent to have a letter or a document inserted into the RECORD.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me just ask unanimous consent for such a letter to be submitted into the RECORD, along with a letter that I have submitted as well to the Speaker on this issue of H.R. 3529 to be brought up on unanimous consent.

The SPEAKER pro tempore. Without objection, the gentlewoman's document may be submitted for the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 21, 2002.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Capitol, Washington, DC.

DEAR MR. SPEAKER: More than 800,000 jobless Americans will lose their unemployment compensation three days before the New Year if Congress leaves town without passing extension legislation. Senate Republican Whip Don Nickles worked diligently last week to broker a compromise bill, H.R. 3529, which the House has the option of passing by unanimous consent tomorrow before it adjourns sine die. We can think of no reason why the House of Representatives, which is in session tomorrow, would be unable to pass the bipartisan compromise extension that was passed in the Senate last week. But we can think of 800,000 reasons for the House to act tomorrow.

The San Francisco Chronicle quoted White House officials as saying that ''the President believes it's important to protect unemployed workers'' and has been lobbying for a compromise to be reached. Mr. Speaker, H.R. 3529 is that compromise. Not only would it ensure that workers receive their full thirteen weeks of extended compensation, but it would provide much needed relief to those who are about to exhaust their regular unemployment compensation and still have not found a new job.

When Members of the House left Washington last week, your spokesman responded to questions about whether the House will take up the Senate bill with: ''We're done, we're closed up. Why don't they do [the House bill]?'' When the House finished its business last week, House Leadership admonished Senators that it was their responsibility to ensure that a Homeland Security

bill was passed. Now, it is the responsibility of the House to ensure that an extended compensation bill gets passed and that 800,000 Americans can rest a little easier this holiday seasons.

Sincerely,

SHEILA JACKSON-LEE,
Member of Congress.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Capitol, Washington, DC.

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Sincerely,

Ted Strickland; Charles B. Rangel; Tim Holden; Lucille Roybal-Allard; Marcy Kaptur; Gary L. Ackerman; Edward J. Markey; Dennis J. Kucinich; Rick Larsen; Neil Abercrombie; Danny K. Davis; Sherrod Brown; Maurice D. Hinchey; James L. Oberstar; Edolphus Towns; Rick Boucher; Bill Pascrell, Jr.; Stephanie Tubbs Jones; Vic Snyder; Darlene Hooley; Louise McIntosh Slaughter; Barney Frank; Lane Evans; Mark Udall; Anna G. Eshoo; Shelley Berkley; Jan Schakowsky; Patrick J. Kennedy.

Joseph Crowley; James P. Moran; Bernard Sanders; Betty McCollum; John F. Tierney; Jay Inslee; Ken Bentsen; Tom Udall; Barbara Lee; Steve Israel; Carolyn B. Maloney; Sanford D. Bishop, Jr.; Robert E. Andrews; Eva M. Clayton; Howard L. Berman; Sander M. Levin; Rosa L. DeLaura; Donald M. Payne; Peter A. DeFazio; Bobby L. Rush; Norm Dicks; José E. Serrano; Martin O. Sabo; Jerrold Nadler; Nick J. Rahall II; George Miller; Carrie P. Meek; Dale E. Kildee.

Joe Baca; Silvestre Reyes; Elijah E. Cummings; Karen McCarthy; John Spratt; Zoe Lofgren; Martin T. Meehan; Baron P. Hill; Ellen O. Tauscher; Bob Etheridge; Steven R. Rothman; Lynn N. Rivers; Bob Filner; Jerry Kleczka; Bart Gordon; Diana DeGette; Earl Blumenauer; Eliot L. Engel; Jerry E. Costello; Ike Skelton; Earl Pomeroy; William D. Delahunt; Steny H. Hoyer; Virgil Goode, Jr.; Tammy Baldwin; David Wu; Jane Harman.

Rubén Hinojosa; Xavier Becerra; Julia Carson; Brian Baird; Carolyn McCarthy; Mike McIntyre; Marion Berry; Dennis Moore; David E. Price; Alcee D. Hastings; John P. Murtha; David E. Bonior; James P. McGovern; Michael M. Honda; Lynn Woolsey; Gene Green; Corrine Brown; Chales A. Gonzalez; Frank Pallone, Jr.; Robert A. Brady; Michael F. Doyle; Adam Smith; Tom Barrett; Lloyd Doggett; Jim Davis; Stephen F. Lynch; Fortney Pete Stark; James R. Langevin; Sheila Jackson-Lee.

CONCLUDING REMARKS

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

Mr. ARMEY. Mr. Speaker, let me just say, since the gentleman from Texas (Mr. THORNBERRY) as a Member of this body was one of the first innovators of legislation with respect to homeland security, how very pleased I am to see the gentleman here today as Speaker pro tempore to drop the gavel on this matter. I am pleased for the gentleman, and I am proud to call the gentleman my friend.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, on behalf of this side of the aisle, I want to say again, as this will be I suppose the last time in the gentleman's role as majority leader that the gentleman addresses the House, we want to congratulate the gentleman on his service. We obviously have had disagreements through the years, but the gentleman has handled himself as a gentleman, and for this side of the aisle, we want to wish the gentleman Godspeed as he enters into a new phase of his career. I know the gentleman's family is pleased to welcome him back to full-time association. I know that was one of the gentleman's prime motives, as he expressed so eloquently on the floor.

On behalf of the minority, we want to wish the gentleman every success and good health and happiness in the future.

Mr. ARMEY. Mr. Speaker, I am pleased to announce to this body that we have some new additions to our congressional family, a new addition to the Abel family. Williams James Abel arrived the night before last, yesterday, in the early hours of the morning, a beautiful baby boy, 9 pounds, 4 ounces.

□ 1245

Mr. Speaker, I wonder if the gentleman from Maryland (Mr. HOYER) would detain for one moment. I want to share a moment with him before he leaves the floor.

Mr. Speaker, in addition to the wonderful, beautiful William James Abell, we have another addition to our congressional family, to the Halpern family, Ari Joseph Halpern, born on November 28. I can tell the Members, Mr. Speaker, that his father is very proud.

Mr. Speaker, I notice a colleague of ours for so many years, the gentleman from Michigan (Mr. BONIOR), who has so ably served as whip on the other side of the aisle. If I could take a moment to say to the gentleman from Michigan from our side of the aisle, and I believe I dare speak in this case for the entire body, we thank him for his years of service. He has always been a gentleman. He has done his job well as a Member of Congress. I would say on behalf, I believe, of all of us in this body, I wish him Godspeed in his remaining activities.

Mr. HOYER. Mr. Speaker, if the gentleman will yield further, I want to join the distinguished majority leader. The gentleman from Michigan (Mr. BONIOR) has been one of the most distinguished Members of this body. He has reflected, I think, what the American public expects of each of us: the courage to state our convictions. He stood for those convictions and fought for those convictions, irrespective of their popularity or whether he found himself to be in the majority on any given proposition.

I think every Member of this body admires the gentleman from Michigan (Mr. BONIOR) for the courage of his convictions. We talk a lot about that, but I think few Members have displayed the courage of their convictions any more dramatically or faithfully than has our colleague, the gentleman from Michigan (Mr. BONIOR).

He is still a very young man, and he has much to offer his country. He fought for his country in Vietnam, and he came here and fought for its ideals. He will continue to serve, I know, as a productive and extraordinary American citizen. We wish him the very best in whatever he may do.

Mr. ARMEY. Mr. Speaker, one final point which I am confident will be of particular interest to the gentleman from Maryland.

Mr. Speaker, with us today is my brother, Charlie Armey, general manager of the Rams. Mr. Speaker, he and his associates are in town this weekend to take care of business. I am sure the gentleman from Maryland would like to make him welcome.

Mr. HOYER. If the gentleman will continue to yield, Mr. Speaker, we shall see. We shall see.

PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE 107TH CONGRESS, SECOND SESSION

The SPEAKER pro tempore (Mr. KERNS) laid before the House the privileged Senate concurrent resolution (S. Con. Res. 160) providing for the sine die adjournment of the One Hundred Seventh Congress, Second Session.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 160

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns at the close of business on any day from Wednesday, November 20, 2002 through Saturday, November 23, 2002, or from Monday, November 25, 2002, through Wednesday, November 27, 2002, or on a motion offered pursuant to this concurrent resolution by its Majority Leader, or his designee, it stand adjourned sine die, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House of Representatives adjourns on any legislative day through the remainder of the second session of the One Hundred Seventh Congress on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each:

TRIBUTE TO MICHAEL F. DIMARIO, 23RD PUBLIC PRINTER OF THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, as the 107th Congress draws to a close, I want to pay tribute to a great public servant and dear friend whose Government service is also now drawing to a close. Michael F. DiMario, the 23rd Public Printer of the United States, will soon retire from his post now that the Senate has confirmed his successor. Mike has served as Public Printer since November 1993, and he leaves the Government Printing Office a much different and better place than when he took office nine years ago.

Mike's achievements as Public Printer are numerous and represent a sea-change in the way GPO produces and distributes government information to the American people. Mike's preeminent achievement has been the establishment and phenomenal growth of GPO Access (www.gpo.gov/gpoaccess), the GPO website established pursuant to a landmark 1993 act of Congress passed with his enthusiastic support. GPO Access today makes about 225,000 Federal titles available on-line, free of charge, to anyone with a computer and access to the Internet. Members of the public today use GPO Access to retrieve an average of 31 million documents each month, over a million every day; more than 1.1 billion Federal documents have been retrieved via GPO Access since it went live in 1994. The GPO site also serves as host to 19 other Federal websites, including the Supreme Court's, and the databases GPO prepares for GPO Access are indispensable to the Congress's prominent legislative website, THOMAS, which is operated by the Library of Congress. GPO Access was the primary site for several major Federal-document releases of the past decade, including the Microsoft anti-trust decision, the Supreme Court's decision in the Florida election cases, and the Starr Report, as well as all annual Federal budgets. GPO Access has won multiple awards from the on-line, library, legal, government, and educational communities, and will undoubtedly continue to revolutionize the distribution of government information.

During his service, DiMario also strongly supported and successfully implemented the Congress' policy decision to transition the Federal Depository Library Program to a primarily electronic format. He worked closely with the library community to implement this transition in a way that met Congress' goals of economy and efficiency while continuing to serve the needs of the public. Today, more than 60 percent of the new titles going into depository libraries are electronic, and the program has realized sufficient savings to underwrite the costs of GPO Access without requiring substantial new appropriations.

DiMario also brought other new technologies to GPO, streamlining its operations. Notable among these advances are the capacity to move print copy directly from computer to plate, which is now used to produce 90–95 percent of all plates used in GPO; roll-fed on-demand printing; and new, smaller, more efficient presses. DiMario also enhanced GPO's electronic communications capabilities through establishment of an agency web site to facilitate online posting of most bid solicitations for printing contracts, and an office-wide Intranet. Working closely with the House, Senate and other Federal agencies, DiMario oversaw the successful Y2K transition at GPO with no disruption of service. On his watch, In-Plant Graphics magazine chose GPO as the top in-plant in the country for four consecutive years, and in 1999, PC Week magazine hailed GPO as one of the top technology innovators in the United States. GPO has received ''clean'' financial opinions on all independent audits conducted during DiMario's tenure, and a comprehensive management audit in 1998 found that GPO has strong support among its ''customers,'' i.e., the Congress, Federal agencies, and the public. During last year's anthrax crisis, DiMario offered GPO facilities for the use of various House and Senate offices, and he made available GPO's loading docks to the Capitol Police when Congress' own delivery-screening facilities were unusable. Since that time, he has worked to establish off-site printing and web capabilities to prevent disruptions of service in future emergencies.

Throughout his tenure, DiMario has strived to cut costs at GPO, and as a consequence, GPO's appropriations have remained relatively flat. Total personnel strength has declined by more than 35 percent since 1993, and now stands at the lowest level in over a century. It is a testament to Mike DiMario's leadership that he achieved the reduction through attrition with no significant workforce dislocation. During his tenure, DiMario worked closely with GPO's unions to reach reasonable wage contracts and ensure the successful implementation of new technology and new ways of doing things.

Through changing times, Mike stoutly defended the GPO against shortsighted proposals to reinvest or privatize its operations, regardless of their source. He clearly articulated how valuable GPO is to Congress's legislative operations, to the economical and effective procurement of printing for executive agencies, and to the public's ability to access Government information in a comprehensive, equitable manner. In the past several months, his defense of GPO against the ill-advised printing proposal of the Office of Management and Budget has been just as determined. The fact that GPO continues to operate today is due in no small part to the fact that Mike believes in the agency and never shirked from defending it when necessary.

Mike DiMario has had the 4th longest consecutive term of service as Public Printer since it began operations in 1861. He resides in Bowie, Maryland, so he's not just my friend, he's also my constituent. As Mike departs the GPO for a well-deserved retirement following 40 years of Federal service, I am sure my colleagues join me in wishing him good luck, Godspeed, and offering him the thanks of a grateful Nation for a job well done.

TRIBUTE TO HON. DAVID BONIOR OF MICHIGAN, AND ISSUES FOR THE 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, we just finished, I think, a very necessary debate and discussion involving the Homeland Security Department but, as well, some of the ailments that we will be facing as this Congress returns in the 108th session.

Before I comment on some of the issues that I believe leave us in a state of unreadiness, I would like to take this opportunity as well to again thank my colleague, the gentleman from Michigan (Mr. BONIOR), for the leadership that he has given to this Nation. I might say ''to this Congress,'' but I believe his leadership goes far beyond these walls.

Having come in 1995, elected in 1994, the gentleman from Michigan (Mr. BONIOR) is the leadership that I knew, which, in essence, I grew up under, legislatively. If I might say, there was not a time, although his work was as the whip in organizing the votes, that he did not have a listening ear and welcoming of different perspectives, being courageous enough to recognize that we do not always speak in one voice. We speak as Americans, but we do not always speak in one voice.

So my applause to him for always being willing to be of service and, might I add, for the special work that he has been engaged in, and that is working to bring people together. I know he has a special connection to the Faith and Politics Institute, bringing individuals of faith and political

life together for the betterment of all of us. So I thank him very much.

It leads me right into the reason why I speak today, which is to highlight, as I said, the unreadiness of this Congress on a series of issues that I think are extremely important that we have not yet done.

I want us to move quickly in the 108th Congress to face down corporate irresponsibility and malfeasance. Yes, we have passed legislation dealing with the ability to audit the internal records of corporations, to fix the audit committees, to oversee accountants, but we have not done much reform on the bankruptcy laws that negatively impacted laid-off or terminated employees.

For example, in my congressional district, when Enron filed bankruptcy on Sunday, they laid off almost 5,000 employees on Monday. Those employees are still trying to recoup. They had nothing, and they lost everything. It is interesting that the corporation could go in and recover through the bankruptcy laws, but the employees had no standing.

I am looking to file legislation with my colleagues to reform the bankruptcy law to put unsecured, fired, or terminated employees of corporations who seek bankruptcy protection at the top of the line. That is most evident by what happened to the family in my community, a member of the Enron family who was out on leave with a catastrophic illness. He, along with others, were terminated in the midst of his catastrophic illness. Of course, he was left with nothing. He lost his house, and he lost his life, because there was no more medical care for him, and there were no more health benefits and no ability to secure his prescription drugs. We have to fix that, Mr. Speaker.

We also have to fix this homeland security bill. I bring to the Members' attention the autism case dealing, as my colleague spoke before, with a vaccine that was utilized to the bad results of this particular individual. Russell Rollins was a picture perfect baby. Then at 15 months, just like every other baby, he got his MMR shot. He had a physical reaction to those vaccines, including a high-pitched scream and days of high-pitched crying and listlessness. Ten years later, those problems continue. Russell is now autistic.

So a vaccine moratorium on this case would be horrific, and this could happen time after time with the kind of limited liability that we have in the homeland security bill. I think it is misdirected, Mr. Speaker, as it is misdirected for airport security and antiterrorism technology.

We have never been afraid of doing the right thing, of ensuring that we have an opportunity for redress of grievances in courts. We have never been overwhelmed with frivolous lawsuits to the extent of products that are defective. We only need to engage in saving life. If Americans understood that under the auspices of homeland security we are blocking their opportunity into the courthouse, they would understand the problem.

Let me close by simply saying that we have many miles to travel; and, as we travel, we need to do it right. I close by simply saying that we did not do it right today, Mr. Speaker. We left 800,000 employees who were fired, terminated, and unemployed without unemployment insurance. We did not do it right, and I hope that we will get it right. I will fight on behalf of those individuals and on behalf of America until we get it right in this Congress.

THANKS AND APPRECIATION TO MEMBERS, STAFF, CONSTITUENTS, AND FAMILY FOR SUPPORT IN MEMBER'S SERVICE TO THE NATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. BONIOR) is recognized for 60 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, I would like to thank my colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), for her lovely comments, and to say how much I have enjoyed working with her through the years. I wish her and her family all the best and the best to the gentlewoman in her future endeavors. She is a great asset to this institution and also to the country.

I also want to appreciate the kind words uttered by my friend and colleague, the gentleman from Maryland (Mr. HOYER), who will be the new Democratic whip. I wish him much success in his new responsibilities; and to the gentleman from Texas (Mr. ARMEY), who also expressed some very kind words, I wish him all the best. It was wonderful over the years working with him and engaging in colloquies at the end of the week, looking forward to the following week. I wish him the best.

Mr. Speaker, I rise this afternoon just to say thank you. I wanted a chance before I left to thank the Members of this institution and my staff for the support of individuals who make this building and this government run so incredibly well.

I want to start by thanking my wife, Judy, who has been absolutely fabulous. I thank her for her love and support; for her loyalty to the issues of social and economic and racial justice; for her wise counsel over the years, keeping me out of trouble when I needed to be kept out of trouble. Most of us who serve here find a way into trouble too often.

She was wonderful in keeping me on the right path, but she also was very good about encouraging me to create controversy, trouble, if you will, when the times clearly needed it. I thank her for helping me lead a path to clarity among much of the confusion that sometimes engulfs our lives, our personal lives, as well as our professional lives, and also for stoking my outrage when outrage was needed, when the situation called for us to become indignant and to stand up and to express ourselves in the most forceful and emotional way, sometimes, that we could to get our points across.

□ 1300

She is a great asset to this institution herself, having served here for over 20 years; and we look forward to the rest of our lives together and continuing on issues that we care deeply about and supporting many of the people who have supported us, especially the young people who are making their way up politically in their lives.

I also thank my children, to Stephen and Julie and Andy, the three of them. They are grown adults now and out of school, fully employed and working in the Washington, D.C., area, for the most part. They have given much sacrifice over the years when their father was not there, when sometimes he should have been. They are great kids. They have worked in the campaign over the years. They have just been super lovely children and now wonderful adults, and I cannot thank them enough for their patience and for their encouragement and sometimes for their criticism when their father needed it. I wish them, of course, the best; and we will continue to love and support them.

I want to also mention some wonderful people on my staff. Senica once said that loyalty is the holiest good in the human heart. While I am not so sure that that it is the holiest good in the human heart, I appreciate the sentiment. Loyalty is a very important part of work, whether it is government work or private work or family life. You have to have loyalty, and I have had the most loyal, wonderful staff that one could ever imagine.

I am going to start by talking about, just very briefly, four people who have been with me throughout basically my whole career. The way my office basically ran was we had four people, two in Michigan, two in Washington; and they worked as a group, as a board: Ed Bruley, Chris Koch, Sarah Dufendach, and Kathy Gille.

Now, they all were with me for virtually my whole career: Ed Bruley, 25 years; Chris Koch, 25 years; Sarah Dufendach, 25 years; and I think Kathy about 20 years, although she worked on my first campaign 26, 27 years ago. So we have known each other, we have supported each other, and we have marched together with each other. They have all left now over this last year, but they will always be in my heart, and I wish them the best. They are really special people.

Ed does such a great job with young people particularly, nourishing them and helping them grow, helping them to become involved.

Chris Koch was sort of the person in our office who managed things and who

was always there to lean on when you had a personal problem and who had a real common touch and a real decency.

And Sarah Dufendach, who ran the office with Kathy Gille here and the whip operation, Sarah has now gone on to work with the Vietnam Veterans Foundation and doing wonderful things. We grew up together in the same neighborhood, and I wish her and Alan all the best in the future. She is a wonderful person.

And Kathy Gille, who grew up on the east side, all of us, by the way, were east-siders in the Detroit area, and Kathy's fight for economic and social justice and racial justice has been steady and passionate. And now she is working on peace with respect to the situation in Iraq. I wish her and Doug Tannear, who runs the Faith in Politics Institute that the gentlewoman from Texas (Ms. JACKSON-LEE) alluded to a little earlier, all the best in their endeavors in the future as well.

Then, of course, there are some of my old whip staff who are now with the gentlewoman from California (Ms. PELOSI): Jerry Hartz, Howard Moon, Paula Short, Jon Stivers, people I have already talked about on this floor several months ago, and who are wonderful assets to this institution, and I wish them all the best.

If I could also address some other staff individuals who have performed tremendously for our office and the people of the 10th District of Michigan: Erich Pfuehler, who was my Washington staff AA. Erich's been with me, for, gee, I am reluctant to guess now, but I know it is in the teens, the number of years, and he is a fabulous young man, and still a young man, and I wish him and Sarah the best in their endeavors.

Maya Berry; Amy Furstenau, who left a while ago; Dana Hopings, who has just done excellent work on urban issues and legislative issues; Kevin Mauro, who has worked in our office in the Rayburn Building; Nicole Nice-Petersen, who left recently to go to law school; Charles Powell, who has spent many, many years working for me doing the mail, providing the humor, keeping the office on a level keel in the Rayburn Building. We will miss him. He is off to Louisiana to make a new home for himself and Sarah.

Paula Short, who I mentioned earlier, who did a fabulous job just keeping me in order for a number of years before she went over to the gentlewoman from California; Kim Kovach we brought over just out of school and in a short couple of years was doing the key work in our office on trade legislation and who is now working for the steelworkers. We wish her and her husband all the best.

Bridget Andrews, who has been with me now for about 2 years and came from Michigan and there, at the end, closing the offices, doing all the difficult work. So, Bridget, thank you for your patience and for your hard work.

I do not want to miss anybody. Brian Taylor, who worked in our whip office, who is now with the gentleman from Illinois (Mr. BLAGOJEVICH). Brian, the best to you in your future. Allison Remsen, who has now left but worked as a press secretary in the whip's office; and Matt Gelman, who did a good job for us and worked on the floor here and many of you knew. He has two lovely babies now and a good job, and we wish him the best.

And Mary Doroshenk and Chris Davis. Mary and Chris actually were married; and that was one of many, many marriages that came out of our organization over 30 years, and we wish them the best.

And Adri Jayaratne, who would make a great legislative director for anybody in this institution, a fabulous young man. And, Adri, thank you for so much of what you have done.

And in Michigan, I would like to say a particular thanks to the following people: Tim Morse, who has run my Port Huron office for 17 years. He is really a wonderful man, and we wish Tim the best in his endeavors.

And Rania Emara and Mark Fisk, Bob Allison and Joy Flynn and Steve Gallop. Steve has been with me 26 years, the whole time. He is as steady as a rock and as knowledgeable as it comes on grants and aid and support, and he is and will always be a very close friend. His sister Ruth, who was with me for 17 years, 17 years, and who now is going over, on her first day, with Senator STABENOW today. So good for you, Ruth.

I mentioned Joy Flynn and Bob Allison, who did some press work, and Mark Fisk, really very capable people, good people.

And Bob Gibson, who is now working for the Service Employees International Union, very good person who deals with workers' issues and community issues.

Charlie Jackson and Cindy Janecke. Cindy, thank you so much for putting up with me through all that scheduling difficulty we had, particularly in the Governor's race. We will certainly miss you, but I know you will do very well in the future. Best to you and Rick.

And to Tyler Kitchel, who is one of my top research people. Tyler is going on to graduate school and who will be missed.

Fred Miller, fabulous guy. Anything you want. Fred worked in the whip office and went back to Michigan and did the politics and other constituency work. We are going to miss Fred, but he is a neighbor, so I will see him on a regular basis.

And Sally Torres, who was one of our caseworkers. Sally has a master's degree in social work from the University of Michigan and does exceptionally good work and is a very caring and decent person. We wish her the best.

And Paul Soderberg and Patrick Rorai and Rick Suhrheinrich. They are all wonderful people, young people who started with us, those three actually, in high school, and now are graduates out of college and have been working with us. I am sure some of those people, Paul, Rick or Patrick, will eventually end up serving the public someday in public office; and I am looking forward to being there with them and helping them in that endeavor.

Darlene Kaltz, whose great humor and organizational skill and accounting skills have kept us on the straight and narrow. We wish Darlene the very best, and we will be seeing much of her as well.

I want to go back to Ed Bruley for a second, because Ed has sort of been the political guru of my staff. I met Ed at a campaign 30 years ago. I ran against him and beat him for State representative. But I knew from that race that I did not want him on the other side, so we formed a partnership. This was right after the McGovern defeat in 1972, and we formed a group called Locus Focus, basically to rebuild the party locally. And Ed was a big piece of that. We got to be good friends, and when I ran for Congress he was one of the key people who made the campaign work and then was hired, and he has been with me for 26 years and ran the gubernatorial campaign.

What Ed was so particularly good about was putting young people together. Over the years we did something called Student Summit, for 15 years, where we would bring high school kids from each of our 100 high schools together and for a weekend we would teach them basically how this institution worked. It was role playing. Each one would take the persona of a Member of Congress. We would take an issue, an environmental issue or an education issue or racial justice issue, and we would lay it on the table. They would elect their leaders, they would elect a speaker, and they would go about trying to get a piece of legislation passed and thereby learning how this institution and their government works.

I am proud to say that over those 15 or 16 years that we have done this a number of people have come out of that and done extremely well, actually been elected to school boards and city councils, and Ed puts that together. He brings people and school-to-work programs from Germany, from Ireland, from Canada into our congressional district, and we have a regular flow of people coming back and forth. That is one of the things that he excelled at, and I think he has given many opportunities to many people as a result of his interest in young folks. So, Ed, congratulations to you.

In fact, right now, he has taken about 20 people and taken them over to Germany. That is where they are at this very minute, some of them on my staff, some other young people, to expose them to government in Germany and the school-to-work program over there, among other things.

So we thank all of them. And I am sure I have left somebody out, and I deeply apologize if I have. It is not because I do not love you and respect you

and appreciate what you have done; it is because I am not as organized as I probably should be this afternoon. But we thank all of you for your kindnesses and your support and your help.

There are other people I want to thank. I saw Ellen Rayner was here a little earlier. She has worked in this institution for 30, gee, I think it is 32 years, and in interesting ways, with the Iran-Contra and a whole host of special committees and recently for the gentleman from California (Mr. WAXMAN) and his committee. And she does a great job. She is going to retire after 32 or 34 years, and we are going to miss her.

But there are so many folks like that who have given their careers and their lives to this institution who need to be thanked and appreciated.

I want to also thank the staff, people who run the floor, the pages, the people in the cloakrooms, too numerous to mention. So many of you have made our lives easier. I know what it is like, being the former whip of my party, having to deal with over 200, at one time 260 Democrats on a daily basis, trying to keep them happy and informing them and bringing them together collegially. I know how difficult it is sometimes to please Members of Congress. But you do it every single day that we are here.

□ 1315

It is not easy sometimes, and I appreciate the patience of the staff and to their devotion.

To the parliamentarians, to the people who cook the food, to the waiters, to the elevator operators, to the janitorial service that keep this place looking really good so the public can enjoy it and appreciate its beauty and its specialness.

If I might also this afternoon, I would like to say a few words about my colleagues. It has been a great joy to serve here. They say over 10,000 people have served in the Congress. I do not know how many Members I have served with, but I suspect it is probably close to 1,000, probably that many over 26 years, and they are some of the finest people that a person would ever want to meet. They work long hours, they work hard, and are devoted to their constituents, to the issues they care about, and to their party for the most part. They do good work for this country, and it has been a joy to have created so many friendships over the years, and I hope to maintain those to the extent that I can in the coming years. To them, thank you for your kindnesses and courtesies.

And to my party, thank you for giving me the opportunity to serve in your leadership. I spent about half of my political career in the leadership here in the House, and it is a gift. It is a very special gift. I will always be grateful for that opportunity. I thank my colleagues for it.

Let me say this to my constituents from Macomb and St. Clair Counties, and these are counties just northeast of the city of Detroit, I thank them for the incredible gift they gave me of allowing me to serve them and to represent them. I have not been the easiest guy to keep sending back. I understand that.

I kind of believe in the old adage if you are not living on the edge, you are taking up too much room; so I like to kind of push on things, and sometimes I know I have tried people's patience. But my constituents have given me the opportunity to do that, and I thank them from the bottom of my heart. Judy and I will retain our home in Mount Clemens, Michigan. We do not know what I am going to end up doing next, but hopefully it will involve a little bit of teaching and a little bit of community service along the way, and perhaps some other things as well.

There is an old saying in the Bible in Proverbs that where there is no vision, the people perish. And in order for an institution or a people to be successful, you have to know where you are going and how you are going to get there. At least one needs an initial plan.

Throughout our career, and I say ''our'' because I consider this not only my career, but the career of the people who work for me and my family, we have tried to have a vision where we wanted to take the district and the country, and that vision revolved around social, economic and racial justice.

These are very difficult times that we are living in today, changing times at an incredible rate, technologically changing, changing times with respect to our natural environment, with our political environment, and the challenges that await my colleagues in this next Congress are monumental. I was going to try to resist leaving a few last words of comments to them, but I cannot help but give a little bit of advice if I could before I leave today.

At the beginning of today's session, Father Coughlin said these words when he gave his prayer. He said, ''Dear Lord, deliver us from fear, hatred and war.'' Of course, if you can deliver yourself from fear, you are a long ways from delivering yourself and your community from hatred because fear is an ingredient into hatred. If you can move away from hatred, you can move away from violence, and violence often manifests itself, in our business, in war.

I am very much concerned about the state of our planet from a variety of aspects, but I will say this in conclusion. I have never seen in my 30 years of public life the international community as brittle as it is. It is almost as if on a hair trigger. I wake up to public radio, and the conflicts are raw, bitter, more frequent, and they seem more intractable.

I am generally an optimist, but I have found myself over the last couple of years, particularly on the international scene, becoming more and more pessimistic. While I know these conflicts in the Middle East and even here at home, and in Asia and South Asia in particular, and other places around the globe are not religious based, they do spring, to some extent, from misconceptions about other people's religions.

It is important for all of us to remember, it seems to me, that Christianity and Judaism and Islam all spring from the same fountain, they spring from Abraham. They are monotheistic in their teachings, and their values are incredibly similar. There is this disconnect out there in terms of what Christianity is about or what Islam is about.

I woke this morning to a story in Nigeria in which 100 people were killed over Christians and Muslims fighting, killing each other over a beauty contest. I am sure that it runs much deeper than that, but that was the issue that triggered the violence.

We have to be able to talk to each other better. We have to be able to reach out to each other more. I am so concerned about our inability to do that, the turning away Christian to Muslim, Jew to Muslim, Muslim to Christian. We need more coming together and understanding about each other's religion and who we are and the great traditions and histories of each other's religion. That is why talking to each other is very important.

I know there are Members in this institution who take great pride in the vote that they cast in 1991 regarding the Gulf War. And I stood at this very spot and gave the final speech in opposition to the Gulf War, and I did so because I felt that the Gulf War, while undoubtedly we would be successful militarily in the short run, would lead eventually to problems down the road in the future. I felt that we would be creating the atmosphere for another generation of people who felt just totally disillusioned and would be susceptible to moving into terrorist kinds of activities, suicide bombings, the kind of things that we have so painfully witnessed and suffered, not only here in our country, but abroad as well.

In 1982, about 20 years ago, I was in the Middle East and was on a trip. I went to seven countries, and ended up in Lebanon. At that time Members may recall, the Israelis were bombing Beirut in the summer of 1982. Arafat was confined in an underground bunker, which I was taken to to meet him, with a few other Members of Congress, and it looked like his time was just about up, and this was 20 years ago. This was a brutal civil war in Lebanon in which tens of thousands of people were lost, and much violence accrued to not only the Lebanese people, but other people in the region.

I remember one particular evening I was having dinner at the American ambassador's residence to Lebanon and the residence overlooked the city and I was eating outdoors with the Prime Minister of Lebanon, Bashir Gemayel. His father, Pierre, had been head of the clan, and also Amin Gemayel. The conversation became very tough and very

accusatory with respect to who was to blame for what was going on just below us in the city.

Some ugly words were spoken, and I said to myself that evening, this is never going to end. The depth of hate and anger is so large, so deep, this is going to go on and on and on, and it did go on for many years afterwards.

That evening after we were done with our dinner, we walked to the edge of the cliff that overlooked the city of Beirut, and we watched the Israelis dropping fluorescent lighting over the city so they could pinpoint activity in the city, and perhaps even bombing the city. The next morning there was a lull in the fighting, and I was walking through the city and I saw the cluster bombs that were made by the United States and dropped in these neighborhoods, and I walked to this one neighborhood and I saw this house smouldering, and as I was standing by this house, a car came up with a father and mother in the front seat, and three teenaged sons in the back seat. The father came over to where I was, and asked me who I was. And I told him I was a United States congressman, and I asked who he was. And he said, ''This is my home. It was bombed last night, and I lost a child and my home.'' I commiserated with him and expressed my sorrow and sympathies.

He went back to his car and he told his family who I was. One of the teenaged sons in the back seat came out of the car ran towards me, and started to attack me. He was pulled off. I had a security person with me. He went back to the car with his father. I will always remember that because I am positive that young man went after me because he associated me, a United States congressman, with the destruction of his home and the loss of his sister.

I think about that a lot because I wonder where those three teenaged boys in the back of that car, where did they end up? Did they end up as guerillas, as terrorists? What was their future going to be like?

Over the last 20 years, particularly the last couple of years, it has been so painful to know that some of our actions, and I do not want to stand here and blame the United States because we are a good country and do great things, but some of our actions have led to this kind of estrangement, this kind of hopelessness, this kind of terror-driven maniacal activity that is occurring around the globe today.

□ 1330

That is why I voted against the Gulf War resolution 10 years ago in this House of Representatives, or 11 years ago, because I felt that that effort was going to lead to another generation of people who are going to be disillusioned and who will strap something to themselves and walk into a building or a bus and blow themselves up. It has happened with much, much more frequency now. I do not know when it is going to abate or how it is going to abate, but we have to start to talk to each other. Violence and war is not the only answer.

I do not stand here as a pacifist. I was supportive of our efforts during the last administration to stop the ethnic cleansing in the Balkans and worked very hard to get President Clinton involved in that situation. I have supported President Bush in his efforts in Afghanistan. But I want to say to you this afternoon that I am so very fearful that our engagement again in Iraq will lead to another generation. They may not be necessarily in Iraq. They may be in Nigeria. They may end up in Indonesia. Does the United States really want to take on a huge part of the world? We have got to be able to talk to each other. We could find ourselves fighting on seven or eight different fronts in a very, very short time.

So violence is not the answer. It is discussion. I would encourage my colleagues and the American public to be a little bit cautious about reading those individuals on war or listening to those individuals in our media on war who have themselves refused to serve their country in time of war. The Rush Limbaughs and the George Wills and the Cal Thomases, these are folks that have not seen a war that they have not liked in their careers. They believe in America using its power repeatedly, consistently, expressing itself through its military might on every possible occasion.

If you read their writings, you will find that. I choose them because they are three that stand out. We need to have a more balanced perspective. If you watch the nightly news or the cable news over particularly the last couple of years, there is this frenzy to outdo each other for ratings or for whatever it is, a hyping of the situation, the war situation, in this instance, in Iraq. There is very little said, if anything said, about the horrific implications of what our sanctions have done to create the atmosphere, if you will, for millions of people to distrust the United States.

I have said this before and I will say it again, and I am not talking about just the Bush administration, the Clinton administration as well, our policy in Iraq led to the premature deaths of 50,000 children. 50,000 children. 50,000 a year. Children who did not get the nutrition they needed, mothers who did not get the nutrition they needed and bore children with low birthweight. Those children died of respiratory problems or they died of diarrhea which is rampant because they cannot get decent clean water because partially of the war and the bombings that occurred and the inability to get equipment to fix the water treatment facilities and the sanitation facilities.

50,000 a year. Yes, that could be rectified through a couple of avenues. Saddam Hussein could deal with this problem and so could the United States, but no one has done it, and it has gotten worse and worse and worse. They know this story in Afghanistan. They know this story in Tajikistan. They know this story in Syria. They know this story in Yemen. They know this story about 50,000 children dying prematurely in much of the world. We do not know this story here.

Yet we sat on a committee, the United States representative sat on what they call a 621 committee, if I am correct on the number. It does not matter. It is a committee of five people, members of the Security Council, and they have to vote on what medicine, what food, what equipment gets to be sent into Iraq. They have done this for 10 years. The United States has been the representative on that committee for the past 10 years that 98 percent of the time has said no to medicine, to food, to water pumps to fix their water systems. We have been the one who said no. They know this story. We do not even know our own story here. And it has led to such painful consequences for the innocent people of Iraq who do not want and do not care for Saddam Hussein and want him out of there. They are suffering. All we have done is strengthen him because it has shifted the focus to our inability to deal justly with their lives.

During the 1991 Gulf War, some of the armored equipment and projectiles, projectiles specifically that we deployed, were coated with something called uranium, depleted uranium. The reason they coat these projectiles is that uranium is hard, it can pierce through tanks, but what they did not tell us was that once this uranium projectile hits a tank or an armored vehicle, it atomizes, it gets in the atmosphere, it gets into people's lungs, and there has been a huge increase in leukemia and soft tissue sarcoma of children in Iraq, 100, 120 percent, since this war. They have the protocols to help these young people, they are mostly young people, I visited them in the hospitals when I was there, to help these people get through this difficult, life-threatening disease, but the United States has denied the medicine to treat these young children.

I tell you these stories not because I want to rag on the United States of America. This is a good country. We do lots of good things around the world in health care and education. But we cannot isolate ourselves the way we have in this part of the world or in South Asia or in other parts of the world and expect that the people are going to understand us and we them.

So I would just conclude by saying that I hope that we will look at our national security concerns from that perspective as well. And then to finally end up, I am sounding like a Baptist preacher, I am saying finally and I am closing 20 times here to the gentlewoman from Texas, but to finally say that our economic security is vitally important as well.

The gentlewoman from Texas (Ms. JACKSON-LEE) addressed this in her comments as did the gentleman from

Wisconsin (Mr. OBEY), the gentleman from Michigan (Mr. LEVIN) and others earlier. We cannot ignore those workers in our country who have through no fault of their own been laid off or lost their jobs. We should have done the bill before we left today. This is a Republican bill, for heaven's sake. It was signed off by DON NICKLES in the United States Senate. It was passed unanimously over there. We are talking about a million people running out of unemployment compensation benefits during a very important time of year for most people. This is a stimulus package in itself, a small one albeit, but needed for those devastated economies in certain pockets of our country. We could have done this. There is no reason we could not have done this. But we did not. We did not do it. And so I hope the first order of business, Mr. Speaker, will be this bill when the new Congress resumes.

Finally, let me just say to you, Mr. Speaker, and to Speaker HASTERT and my dear friend DICK GEPHARDT, whom I have had the honor of working with, I thank you for your kindnesses over the years and your leadership. Both of your staffs have been exceptionally wonderful to me and to my staff. I thank you for all the kindnesses that you have shown me. I look forward to returning those kindnesses in the years and months ahead.

I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. I thank the gentleman for yielding.

Mr. Speaker, I did not leave the floor because I knew that the gentleman was going to give to this Congress an oration or a message that we should not miss. I just want to conclude to the gentleman's remarks by again thanking him for his service to America. And though you did not announce it yourself, many of us alluded to it, it is important to restate that you are a veteran of wars. You did go to Vietnam. You did serve your country in the United States military.

And so as you speak in concluding, thanking your staff and those of us of your colleagues, you speak from what you know. What I would like to offer to you is again an enormous thank you for educating us about the admonition of delivering us from fear and hatred and war. We would do well in the next Congress to include you, encourage you, and listen to you for the travels that you have made, the insights that you have gathered. Might I make a commitment, and might I say that I have been very much instructed by your words, is that we will not give up on a vote and that is that a vote that has seemingly given authority to go to war against Iraq. I always say to my constituents, there was a vote, but likewise there were votes, plural, that expressed a different perspective.

I think it is important for those of us who view this war as both untimely and as well ill-directed, to follow in your line of reasoning and, that is, to keep raising the issues and seeking to educate the American population.

Lastly, I would say the tone that you offered your message and your words today should be applauded by all. You were encouraging, embracing and nurturing. We thank you. What I would say to those who have debated this question of war, I would hope, and sometimes we are looked upon as being frivolous, that we might debate the question of peace, that there might be legislative initiatives that would talk about generating peace and understanding. I do not know if we have ever done that. I know there is a peace institute.

I would encourage and simply ask the minority whip, the former minority whip and the very helpful leader of this Congress and this Nation, to continue to stay in the fight with your words and wisdom on these issues, and maybe we will get there someday, understanding that peace has a greater price maybe, but a greater return than any war that we could engage in. I yield back to the gentleman with an enormous thanks.

Mr. BONIOR. I thank my colleague for her lovely words. I wish her success and happy Thanksgiving to you and your family and to the staff as well. Bless you.

RECALL DESIGNEE

The SPEAKER pro tempore (Mr. KERNS). Without objection, and pursuant to section 2 of Senate Concurrent Resolution 160, the Chair announces the Speaker's designation of Representative RICHARD K. ARMEY of Texas to act jointly with the majority leader of the Senate or his designee, in the event of the death or inability of the Speaker, to notify the Members of the House and the Senate, respectively, of any reassembly under that concurrent resolution, and further, in the event of the death or inability of that designee, the alternate Members of the House listed in the letter bearing this date that the Speaker has placed with the Clerk are designated, in turn, for the same purpose.

There was no objection.

STATUS AND LEGISLATIVE PRIORITIES OF GUAM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 60 minutes.

Mr. UNDERWOOD. Mr. Speaker, first of all, I want to congratulate the gentleman from Michigan (Mr. BONIOR) on an excellent career and express my profound admiration for him and for his work that he has done during the course of his career.

Perhaps one of the most unknown dimensions of his role as a leader in the House of Representatives is his willingness to take the time to take newer Members on and guide them through the process, especially those people that are not full Members of the House like myself, as a delegate from the territory of Guam, take the time to shepherd us through the process and provide guidance and support whenever necessary.

There were a number of points along the way in which the assistance of the gentleman from Michigan was very critical. I want to just recount two stories along those lines. One obviously was in the beginning of the 103rd Congress when the delegates of this House were granted a vote on the floor of the House under the Committee of the Whole which was introduced as a rule in the 103rd Congress. He stood by us and he was very strong on that. There was a lot of internal debate within the Democratic Party caucus and, of course, it became a full blown national issue almost immediately, resulted in a lawsuit and everything else, and probably even contributed to the demise of the majority by the Democrats in the 104th Congress.

□ 1345

But, true to his word, the gentleman from Michigan stood by the delegates; and he stood by the fact that he felt, as many of us U.S. citizens feel, that full representation in the House is not dependent upon payment of taxes but is dependent upon citizenship. He stood in a very steadfast manner for all of us, and we very much appreciated it.

Then another part which is much less well-known, but I am willing to kind of talk about it a little bit now, was, in organizing the Democratic Caucus rules for the 104th Congress, some of the Members felt that the delegates had become albatrosses around the neck of the Democratic Caucus, so that one way they could perhaps, since the Democrat delegates did not contribute to the winning of the speakership and since they were part of the committee ratios, some Democratic Members felt that perhaps it would be a good idea to limit the delegates to one committee membership as opposed to two. The reasoning for that was that since the party ratios had shifted and the Democrats were now kind of in a tough situation trying to fight for seats on choice committees, that if the delegates who were not helpful in controlling the House in any ways, if they were limited to one committee assignment, perhaps it would be of greater assistance to the Democratic party. And again, of course, I was part of a group that spoke out vigorously against that idea and spoke to the meaning and the heart of what it meant to be a member of the Democratic party caucus; and again the gentleman from Michigan (Mr. BONIOR) stood by those people who were basically without a voice in this House. So I congratulate him on a career well spent.

I am taking the time this afternoon in the last day of the 107th Congress for the House of Representatives to simply express my gratitude to the people of

Guam for allowing me the opportunity to serve as their representative here for some 10 years, to thank my family, my children, and especially my wife, Lorraine, for making possible this service, as well as my mother, who is 89 years of age and continues to be of encouragement and provide guidance and wisdom in everything I do, as does my wife, Lorraine, and as do our five children, and also to express my gratitude to all the people who have supported me in political endeavors over the years, including a recent campaign for governor of Guam which I did not prevail in, but certainly I wanted to take the time to acknowledge their presence.

In fact, one of my Underwood young adult leaders is here with us this afternoon; and she is a neighbor, actually. She lives a couple of houses from us, Allison Chamberlain; and it is a very great honor and privilege to be allowed to give this special order with her present as well as my successor, Madeleine Bordallo, who is currently the Lieutenant Governor of Guam.

One of the things that I try to recount is what 10 years of service in the House of Representatives means, but what I wanted to do was basically talk a little bit about Guam, a little bit about that service and a little bit about the experience of being a nonvoting delegate in the House of Representatives. None of these three stories are really given much attention in the context of national politics here in Washington, D.C., and Guam is the farthest congressional district of any location. Sometimes people have a very kind of romantic view as to what constitutes Guam, and there are a whole lot of sentiments that go into that.

One of the things that over the years of service that I had, and people in every congressional district, I am sure, have this sentiment, that they think that they are the center of the world, and I would go back home and people would ask me, what do the people in Congress feel about Guam? And I would say, well, the good news is that they do not feel badly about Guam. The bad news is they do not feel particularly good about Guam. The reality is just that they do not feel much about Guam because everyone here is elected to represent their own constituency and represent their own interests, and it is only my responsibility to try to bring attention to the issues of Guam.

But Guam is a very special place. Obviously, it is the place of my birth, it is the place where I grew up, it is the place that has nurtured me and provided me the opportunity to rise not only in public service here in Washington, D.C., but also serve as an educator for some 20 years, and they have been supportive throughout the whole process. It is grounded in the experience of the indigenous people of the island, the Chamorro people, and I count myself to be fortunate amongst those people and to be part of a very special group of people that continue to speak the Chamorro language and be grounded in the experience of the people of the island.

But Guam is also enriched by newcomers, people who have brought their experiences to the island and continue to enrich it in ways in which the economy grows and social interaction grows; and there is just a great deal of social progress. To be sure, there are always fits and starts in any kind of conditions that obtain like that, but it is important to understand that it is a very special place.

One of the things that people in Guam sometimes feel is that they are isolated, and it is easy to sense that if they see themselves as 9,000 miles from Washington, D.C., and they are basically almost in the middle of the Pacific Ocean, but it is not. In reality, Guam is one of the most strategic pieces of real estate in the entire world.

It is the first Pacific island to be settled by nonPacific islanders. In fact, in Douglas Oliver's work on Pacific Islands, he begins the chapter on Guam by saying the rape of Oceania began with Guam. It was so-called ''discovered'' by Ferdinand Magellan, and it quickly became a way station for the Manila Galleon. The Manila Galleon was the ship that went between Acapulco, Mexico, and Manila on an annual basis and provided the core of the Spanish empire imprint in the Pacific for at least two to three centuries. It is also the only Pacific island that was taken by the United States as a result of the Spanish American War.

Of course, it was occupied by the Japanese during World War II, and there is a tragic story that was involved in that. It performed an important role in both the Korean and Vietnam conflicts, and today Guam is part of the global reach and power projection strategic picture of U.S. Armed Forces as they look to deal with the challenges that we confront in the 21st century. Guam is a critical part of that.

Its importance is even more critical now as we face challenges in the Asian-Pacific region and even as we face the potential of conflict in Iraq. Guam will be a major throughway for any potential conflict in that part of the world.

Its history is unique. It is the only U.S. territory to be occupied since the War of 1812, and as a result of a couple of things, the strategic importance of Guam and the enemy occupation of Guam led to two main issues which have affected Guam politics since the end of World War II. I am very happy to have worked on these two issues and have provided a glide path, I think, for resolving these two issues which have been of significance in Guam politics since the end of World War II.

The first has to do with land. Guam is only 212 square miles. After World War II, the U.S. military took a great deal of land, a little bit over half of the land, as they tried to triangulate a process of creating bases in order to deal with the Cold War, the emerging Cold War. As a result of that, that land was authorized to be taken by Congress; and it was given to the military government to figure out how to take this land.

Needless to say, the land was taken under military government. Sometimes a military officer would be in charge of taking the land, and then, if they had it adjudicated, it was a military officer who was a judge, and it was a very closed system. So it led to much abuse, and it led to a lot of very odd situations in terms of land.

So the return of Federal land has been one of the most difficult and tortuous issues in Guam because the majority of original landowners are still very much with us today. And remember the time when they signed papers that said, do not worry, as soon as the military no longer needs the land, it will be returned. Over the years the military has had the opportunity to return land but never to the original landowners; and, as a consequence, this very difficult process has been part of the main issues that any delegate from Guam has had to deal with here in Washington, D.C.

The two pieces of legislation which I moved through Congress, one is 103–339, which returned 3,200 acres of excess lands to the people of Guam; and the other is 106–504 passed in the last Congress, the Guam Land Return Act, basically are connected. They demonstrate for each other how land is to be returned to the people of Guam, and that is that basically the 3,200 acres were to be returned to the government of Guam before any other Federal agency, even though the land was accessed and that it was to be used for a public benefit purpose and that public benefit purpose would be outlined in subsequent reports of land usage by the government of Guam.

Those subsequent reports have included the possibility of return to original landowners through a locally constructed process of review called the Ancestral Lands Commission, and so today that process is in full swing. It is a legal process, and it is a process that has moved most of this land into the hands of the original landowners.

Since the 103–339 was for a specific piece of property, 106–504 says that, in the future, if the Federal Government is in the position of having any excess lands, that the government of Guam will be treated as a Federal agency and be at the head of the line for land return.

This is such unprecedented legislation that many other communities have tried to figure out how they can get the same kind of legislation for their community, but of course no one had the exact same experience as the people of Guam coming out of World War II. As a consequence, it is in recognition of the unfair nature and the unjust nature of the land takings that occurred at the end of World War II that led to the possibility of Guam's being treated as a Federal agency and

at the head of the line in return for excess lands which 106–504, the Guam Land Return Act, posits.

In the meantime, of course, we deal with many, many other land issues; and we have to deal with them in terms of a declaration of critical habitat, Fish and Wildlife Service, the application of the Endangered Species Act, monitoring the return of excess lands, working with the General Services Administration. All of this are part and parcel of the portfolio of not just making sure that these pieces of legislation were passed but to make sure that they are implemented in the spirit that they were intended, and that has provided a lot of work. It meant that we had to do a lot of work as a congressional office, and we are very satisfied with that work.

We are very content that we passed two landmark pieces of legislation for that, but it does not mean that the struggle has ended, but it does mean that the glide path and the ultimate resolution of land issues is encased in Federal law, and that has occurred as a result of a great deal of work from my office and the collaboration of local officials as well.

The other issue arising out of World War II is war claims. The people of Guam at the time of the Japanese occupation during World War II were not U.S. citizens, they were called nationals, American nationals. That was a term of art meaning that they are not really a foreigner but they are not a citizen either. So the term ''national'' was applied to the people of Guam, and they were occupied during World War II, and of course it really is the only American territory that has been occupied since the War of 1812. So that experience led to a piece of legislation called the Guam Meritorious Claims Act which offered a tailor-made process by which the people of Guam could file claims based on their war experience, and that war claim time period existed for 1 year, from 1946 to 1947. This was at a time period when people were still recovering from the war.

□ 1400

It also posited that if you had any claim that was over $5,000, you had to make a personal appearance in Washington, D.C., to adjudicate it. It was an impossible process; and, as expected, most people did not file claims; and some people could file a claim for death and get $320. So it was, again, another process that had simply fallen apart and did not satisfy the war claims.

Well, subsequent to that, in 1948 and then with a revision in 1962, the U.S. Congress passed laws related to war claims for American citizens and nationals, but it excluded Guam from participating in that process. As a consequence, the claims resulting from American citizens as a result of their wartime experience, either as civilians or people in uniform, prisoners of war, or whether they were just put in civilian internment camps, either by Japan or Germany during World War II, had a clear process through which to adjudicate their war claims. But the people of Guam did not have that process. It led to some very, very interesting anomalies; and I will just offer one now.

My grandfather, James Holland Underwood, was taken by the Japanese off of the Island of Guam, even though he was a civilian, and put into a civilian internment camp, in Kobe, Japan. He was covered by this legislation, which meant that he could file a series of claims based upon the legislation passed by Congress in 1948 and amended in 1962, but his wife and his children and all of his family who endured many more hardships under the Japanese occupation could not.

So that is the anomaly that presented itself as a result of the war. So, as a consequence, the cry of war reparations or war claims has been part of the process and getting recognition for this experience, getting recognition for the unique experience of the people of Guam during World War II.

So my office has worked very diligently on this. I think one of the first bills that we passed coming out, well, it was the very first bill I ever had anything to do with in the 103d Congress, is 103–197, which creates the Asan Bay Memorial Wall which lists by name all of the people from Guam who suffered during World War II; and it has over 10,000 names. It is on the wall in the Pacific National Park that is in Guam, and it is an unprecedented effort and was an effort that the national park did not want, so we had to move it into law. I think it was entirely appropriate that the experiences of the Chamorro people of Guam during the Japanese occupation be honored and recognized this way, and it exists today as a result of this legislation.

When the World War II national memorial, the effort led by former Senator Bob Dole, out here in the Mall was envisioned, part of that was that they were going to create 50 columns, each one to honor each State in the national memorial for World War II. And what I thought, of course, representing the people of Guam, what an abomination that is. The only American territory occupied by the enemy during World War II would have not been recognized in the national World War II Memorial, because each of the 50 pillars was thought of as representing each of the 50 States.

So after a lot of floor speeches and a lot of work and a lot of appeals, the World War II Memorial on the Mall will include Guam, as well as the other territories. But Guam, more so than I think any other jurisdiction, because it was the one area of the United States that experienced enemy occupation during World War II.

We have also been able to include memorials in the Department of Defense authorization for massacres of Chamorros which occurred at Fena and Yigo, massacres where people were beheaded or machine gunned or had hand grenades thrown at them.

Over the years, we have also been very proud of telling the story, the Guam story, through our activities here in Washington. Every year, I began with my service in 1993, we began celebrating Guam Liberation Day with a ceremony, a wreath-laying at the Tomb of the Unknowns at Arlington National Cemetery; and we have done this consistently for 10 years, trying to bring national attention to the Guam liberation experience and the experience of the people of Guam during World War II.

On the 50th anniversary of that experience in 1994, we were able to secure full military honors for the 50th anniversary, including the presence of a number of secretaries, Cabinet secretaries, and the chairman of the Joint Chiefs of Staff and, of course, all Services being present. The most stirring part of it was the playing of the Guam hymn at Arlington National Cemetery. Taking the time to not only learn what the Guam hymn was all about but to actually play it was a moment of pride for those of us who had struggled to get national attention.

But the greatest achievement we have made in this occurred 3 days ago with the passage of H.R. 308 in the Senate, and this is the Guam War Claims Review Commission Act. For the first time, we will have a commission which will understand and look at the Guam war claims in light of all of the other war claims that had been offered to American nationals and American citizens coming out of the war experience. So that bill is now in. It passed the House last year, it passed the Senate under a unanimous consent arrangement on Tuesday night. So we are sure that President Bush will sign it because we had worked with the incoming Bush administration at the time to make sure they understood it and they support it. So we look forward to that resolution and that commission so that the people of Guam can tell their full story and so that full justice can be made on the basis of war claims.

Sometimes it is not really clearly understood why the war claims arising out of the activities of Japan or Germany are addressed to the United States, as opposed to those countries. It is important to understand that the Japan-U.S. peace treaty in 1951 absolved Japan of any individual claims, and those claims are inherited by the U.S. Government. The thinking at the time, and it is still very much present today, is that they would pay those claims out of funds that were confiscated as a result during World War II funds confiscated from Japanese companies, et cetera. It is simply standard practice in peace treaties.

But we also did other things as well. We tried to tell a little bit about the people of Guam, and we are certainly proud of things that we were able to do to get some national recognition for Guam.

One of the most intractable problems, and sometimes people do not see this or do not experience it, is the chewing of betel nut, pugua, pugua in the Chamorro language. It is a hard nut in the way that the Chamorros chew it, and it has been identified as a carcinogenic by the Food and Drug Administration, and it is, consequently, a banned substance. So since Guam is outside of the U.S. Customs zone and you come into the Customs zone, you go through a Customs zone in Hawaii and then an agricultural inspection. If they find betel nut on you, it is a banned substance, and they take it away. It is one of the most absolutely frustrating experiences for people from Guam, because people from Guam bring betel nut to their relatives for personal consumption, not out of the desire to get everyone else inside the Customs zone to chew betel nut, I do not think it would be very popular, but simply as a cultural practice.

We did pass legislation in the House that would eliminate this ban by the FDA, and when it went over to the Senate, I think it is one of the few times that the Food and Drug Administration actually changed one of their rules and exempted betel nut coming from Guam, so that the people from Guam can now ship betel nut into the Customs zone or bring it in, as long as it is for personal consumption. The good news is we define personal consumption as 5 pounds, which is a lot of betel nut. So we are very happy with that. The people of Guam who constantly ship betel nut to their relatives are very happy about that.

We fought to get Guam recognized in many other ways. One of the most interesting ways is we found out that the time zone of Guam and the Northern Marianas is one of nine time zones that is under the U.S. flag that is unnamed, so we decided we would introduce a bill to call it Chamorro Standard Time. It was one of those bills that we did not work hard on but, for some reason, it caught a lot of attention and the next thing you know it became law. So we have a new time zone under the U.S. flag, and it is called Chamorro Standard Time, and it is in honor of the indigenous people of Guam and the Northern Marianas.

Also in commemoration of the 100th anniversary of the centennial of Guam being under the U.S. flag, at that time I talked to Speaker Gingrich; and since he is an old history professor I tried to tell him and convince him that this was an historical moment that we cannot let pass and would he allow us to let us fly five Guam flags over the U.S. Capitol in honor of that. He checked it out and he said, they never fly any other flag ceremonially other than the U.S. flag, but after a lot of discussion, we finally got him convinced. So I think we are the only jurisdiction other than the U.S. that has ever had flags flown over the Capitol.

So we have those five flags, and of course they have gone to museums in Guam, and people are very happy to have these flags.

We fought to be commemorated and to be included in the Commemorative Coin Act. Every young person in America has these 50 quarters, commemorative coin bills. Well, one of the things is that, of course, the territories and even the District of Columbia is not included in this. It is simply an oversight, and it should be treated as an oversight, and that bill has passed the House twice. It has gone over to the Senate to languish. I regret to say that it went over to the Senate, and it never passed. A Senator objected to it. This exercise in trying to get American children to understand the fullness of America was defeated by some kind of narrow notion as to what includes America and what does not include America.

Even in the stamp program, I had one of the most outrageous experiences I have had as a Member of Congress, was when they created this 50-stamp program commemorating each State, was to try to find a way to get a Guam stamp and a stamp for the territories or a stamp for the District of Columbia. I had a number of meetings with Post Office officials and one of them told me, you know, one of the reasons why we did 50 stamps is because it fits neatly. There is 50, it fits into 5 rows of 10, and I had never seen such disrespect or disregard again as to what constitutes the fullness of America.

But, in any event, we continue to work on those, and they have not been successful. We understand that there may be a stamp outline for Guam under the stamps that are usually used to mail internationally, so we work on that.

Every State in the Union has a street named after it and the District of Columbia, and they are all usually diagonals. I went to Madrid, Spain, a few years ago; and I asked if there was a Guam street in Madrid, Spain. They proudly took me to the Guam Street in Madrid, Spain, because they said they wanted to recognize those areas that used to be a part of Spain. So, naturally, when I came back, I asked that the District of Columbia create a Guam Street. Given the nature of bureaucracy, I think we are almost there, but, still, it is just another reminder again sometimes about inclusion and trying to be recognized as part of America.

Of course, we worked hard over the years to try to get dignitaries to come to Guam, and we are very fortunate that even President Bill Clinton came to Guam and a number of other secretaries. We certainly hope that President Bush during his tenure in office will find the time to come to Guam.

Beyond that, we worked on military issues, we worked on issues that pertain to people in uniform, we fully funded the Guam Readiness Center, we have gotten almost a half a billion dollars of military construction for Guam to not only help the economy but to continue to cement the importance of Guam as a military location.

□ 1415

We worked hard to make sure that people in uniform got the benefits that they deserved. We did this not only through my work on the Committee on Armed Services, but even on the MWR panel we tried to propose different things to make sure that, for example, National Guard personnel would get full commissary privileges if they were called up on a national emergency or a federally-declared disaster.

So we continued to work hard to benefit our people in uniform, because so many of our people in Guam joined the military, as well as we in Guam understand the importance and the significance of the military and our role in the world.

We also work to continue to get people to understand the military value of Guam, even in the midst of negotiation, even in the midst of closing of bases, even in the midst of the A–76 process, all of which were, in the main, very painful for the people of Guam. There was much discussion about closing various facilities in Guam. We were able to keep some of that from happening, but now that the whole process has again been reevaluated, now submarines are being homeported in Guam, and there is the likelihood of military aircraft being stationed in Guam at Anderson Air Force Base, and we have been working very hard on that.

At the conclusion of this term in Congress for myself, I wanted to take an opportunity to talk a little bit about some of those things that our office tried to do over the course of five terms. But there is always something that is going to be left undone, and there are always a lot of things that remain to be done. There will always be. There will always be work for elected officials, and there are always going to be issues that present and manifest themselves that need direct attention.

Although there is always one thing that remains unfulfilled, in the end, I know this process will be completed, and that is the political status of Guam. The political status of Guam is called unincorporated territory. What that basically means legally is that we are not fully a part of the United States, but the U.S. Congress has plenary power over the territories.

This is a quandary that small territories particularly find themselves in because, unlike Puerto Rico, smaller territories do not really have the option, or it is not a feasible political option at this time, to aspire to statehood, so there are very few mechanisms by which we can have full participation in American society, and particularly in the laws that apply to us. So that is also a concern.

There was a great movement towards ''commonwealth'' in Guam that began in the '70s, and with some hope and aspiration, found its way into Congress in the late '80s and into the '90s, but as time went on and as the economy went bad in Guam and other things took

center stage, this effort to change the political status of Guam has been put aside.

But like so many other things that are of fundamental, enduring political importance and speak to the essence of who we are as a people and where we fit into the body politic, this issue will come back, and it will come back at sometime in the future.

Lastly, I just wanted to talk a little bit about an item related to political status; that is, occupying this position that five other people basically hold in the House of Representatives, and that is being a delegate to the House of Representatives.

The official title of this office is ''nonvoting delegate to the U.S. House of Representatives.'' It is an inelegant title. It is a title one is fully aware of when one aspires to office here. As we try to work on legislation here sometimes people say, oh, it is like trying to pass legislation with one hand tied behind our backs, or even with our mouths taped shut. It is a very difficult process, because we are not representatives. We are not fully a Member of the House of Representatives. There are costs that are attached to that. It is the situation we are confronted with.

Nevertheless, I think most delegates find a way to still find a fulfilling career as they try to fulfill the aspirations and meet the needs of their people. However, a day does not go by in this House of Representatives that we are not reminded in some way about the unique status that we have and the unique role that we play in this process; that is, basically representing a constituency for whom their political future is unclear, and for whom they have most of the obligations of American citizenship, they must obey Federal laws, they join the military, they have a commander in chief for whom they cannot vote, and they have a Representative in the House of Representatives who cannot vote for them whenever any piece of Federal legislation passes through here, but for which they must obey the law, in any event.

It is not a comfortable situation to be in and it is not a fulfilling situation to be in. In many ways, one cannot go the whole day here in the House without being reminded about it.

I have enjoyed the time I have had here, and I certainly enjoyed the time working with other Members of the House of Representatives. I certainly hope that the people of Guam wish my successor, Madeleine Bordallo, all the success in the world. I certainly hope that the Members of this body will extend to her every courtesy that has been extended to me.

I also thank all of my staff who have helped me through these 10 years. I want to make special mention of my current Chief of Staff, Esther Kiaaina; and my previous Chief of Staff, Terry Schroeder; and my district director, Vince Leon Guerrero, for the kind of steadfast loyalty and efforts they have made in making sure that our offices were always there for the people of Guam.

List of staff members is as follows:

PERSONNEL LIST

DC STAFF

Teresita P. Schroeder, Myat Moe Khaing, John J. Whitt, Angie P. Borja, David Goodfriend, Keith Parsky, Andrea Williams, Aric Noboa, Mark Jeffreys, Perfecto (Paul) T. Galman, Mariel L. Loriega, Jed R. Bullock, Nicholas J. Minella, Anthony M. Babauta, Esther Kiaaina, Jeannine Aguon, Lisa Ann B. Pablo, Alice Taijeron.

GUAM

Darryl Taggerty, Annie A. Rivera, Jimmy D. Iglesias, Phil T. Garcia, Vincent A. Leon Guerrero, Shirley B. Balmeo, Joshua F. Tenorio, Mae C. Tenorio, Catherine S. Gault, Paul A.P. Hattori, Donna F. Balbas, Joseph E. Duenas.

I want to acknowledge the work of my office managers Annie Rivera and Angel Borja was worked loyally for the entire time I was in office.

REAPPOINTMENT AS MEMBER TO COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The SPEAKER pro tempore (Mr. KERNS). Without objection, pursuant to Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) and upon the recommendation of the minority leader, the Chair announces the Speaker's reappointment of the following member on the part of the House to the Coordinating Council on Juvenile Justice and Delinquency Prevention to a 2-year term:

Mr. Gordon A. Martin, Roxbury, Massachusetts.

There was no objection.

A HAPPY BIRTHDAY WISH TO SCOTT PALMER

(Without objection, Mr. ARMEY was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, before we adjourn for the year, I would like to take a moment to wish Scott Palmer, Speaker HASTERT's chief of staff, a very happy birthday today.

CORRECTION TO THE CONGRESSIONAL RECORD OF TUESDAY, NOVEMBER 19, 2002, AT PAGE H9028

The following letter is a corrected version submitted by the Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 18, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 18, 2002 at 1:55 p.m.:

That the Senate passed without amendment H.R. 2458.

That the Senate passed without amendment H.R. 5708.

That the Senate passed without amendment H.R. 5716.

That the Senate agreed to conference report H.R. 4628.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 12. An act to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes; to the Committee on International Relations.

S. 13. An act to extend authorization for the national flood insurance program; to the Committee on Financial Services.

S. 14. An act to amend the Agricultural Adjustment Act of 1938 to extend the farm reconstitution provision to the 2003 and 2004 crops; to the Committee on Agriculture.

S. 606. An act to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency; to the Committee on Energy and Commerce.

S. 1340. An act to amend the Indian Land Consolidation Act to provide for probate reform with respect to trust or restricted lands; to the Committee on Resources.

S. 1816. An act to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Resources.

S. 2063. An act to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites; to the Committee on Agriculture.

S. 2222. An act to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation

and Sealaska Corporation, and for other purposes; to the Committee on Resources.

S. 2670. An act to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West; to the Committee on Resources, in addition to the Committee on Agriculture 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.

S. 2711. An act to reauthorize and improve programs relating to Native Americans; to the Committee on Resources.

S. 2872. An act to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois; to the Committee on Energy and Commerce.

S. 3079. An act to authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3210. An act to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

H.R. 3833. An act to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

H.R. 5005. An act to establish the Department of Homeland Security, and for other purposes.

H.R. 5469. An act to amend title 17, United States Code, with respect to the statutory license for webcasting, and for other purposes.

H.J. Res. 117. Joint resolution approving the location of the commemorative work in the District of Columbia honoring former President John Adams.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1240. An act to provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, and for other purposes.

S. 2237. An act to amend title 38, United States Code, to improve authorities of the Department of Veterans Affairs relating to veterans' compensation, dependency and indemnity compensation, and pension benefits, education benefits, housing benefits, memorial affairs benefits, life insurance benefits, and certain other benefits for veterans, to improve the administration of benefits for veterans, to make improvements in procedures relating to judicial review of veterans' claims for benefits, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on November 21, 2002 he presented to the President of the United States, for his approval, the following bills.

H.J. Res. 124. Making further continuing appropriations for the fiscal year 2003, and for other purposes.

H.R. 2621. To amend title 18, United States Code, with respect to consumer product protection.

H.R. 3758. For the relief of So Hyun Jun.

H.R. 3988. To amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

H.R. 4727. To reauthorize the national dam safety program, and for other purposes.

H.R. 5590. To amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

H.R. 5708. To reduce preexisting PAYGO balances, and for other purposes.

H.R. 5716. ''Mental Health Parity Reauthorization Act of 2002''.

SINE DIE ADJOURNMENT

Mr. ARMEY. Mr. Speaker, pursuant to Senate Concurrent Resolution 160, the 107th Congress, I move that the House do now adjourn sine die.

The motion was agreed to.

The SPEAKER pro tempore. In accordance with Senate Concurrent Resolution 160, 107th Congress, the Chair declares the 2nd Session of the 107th Congress adjourned sine die.

Thereupon (at 2 o'clock and 23 minutes p.m.), pursuant to Senate Concurrent Resolution 160, the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10161. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Irish Potatoes Grown in Colorado; Reduction of Membership on the Area No. 3 Colorado Potato Administrative Committee [Docket No. FV02-948-2 FR] received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10162. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Apple; Grade Standards [Docket No. FV-98-3 03] received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10163. A letter from the Administrator, Dairy Programs, Department of Agriculture, transmitting the Department's final rule — Milk in the Pacific Northwest Marketing Area; Interim Order Amending the Order [Doc. No. AO-368-A29; DA-01-06] received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10164. A letter from the Administrator, Tobacco Programs, Department of Agriculture, transmitting the Department's final rule — Tobacco Inspection; Mandatory Grading [Docket No. TB-02-11] (RIN: 0581-AC20) received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10165. A letter from the Administrator, Agriculture Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit [Docket No. FV02-905-5 FIR] received November 22, 2002,, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10166. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Walnuts Grown in California; Decreased Assessment Rate [Docket No. FV02-984-1 IFR] received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10167. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Dried Prunes Produced in California; Decreased Assessment Rate [Docket No. FV02-993-4 FIR] received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10168. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Kiwifruit Grown in California; Relaxation of Pack and Container Requirements received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10169. A letter from the Under Secretary, Department of Defense, transmitting revisions to the National Defense Stockpile Annual Materials Plan (AMP) for fiscal year 2003, pursuant to 50 U.S.C. 98h—5; to the Committee on Armed Services.

10170. A letter from the Assistant Secretary, Department of Defense, transmitting a report on Medical Informatics required by Section 753, National Defense Authorization Act for FY 2001; to the Committee on Armed Services.

10171. A letter from the Vice Chairman, Export-Import Bank, transmitting a report on transactions involving U.S. exports to South Africa pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

10172. A letter from the Director, Office of Management and Budget, transmitting appropriations reports containing OMB cost estimates; to the Committee on the Budget.

10173. A letter from the Secretary, Department of Education, transmitting Final Regulations —— Adjustment of Civil Monetary Penalties for Inflation, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

10174. A letter from the Secretary, Department of Education, transmitting a follow-up report pursuant to section 6(b) of the Federal Advisory Committee Act, as amended; to the Committee on Education and the Workforce.

10175. A letter from the Assistant Secretary, Department of Education, transmitting the Department's final rule — Student Assistance General Provisions — received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10176. A letter from the Secretary, Department of Education, transmitting the Department's final rule — Federal Student Aid Programs (RIN: 1845-AA23) received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10177. A letter from the Acting General Counsel, Consumer Product Safety Commission, transmitting the Commission's final rule — Poison Prevention Packaging Requirements; Exemption of Hormone Replacement Therapy Products — received November 22, 2002, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Energy and Commerce.

10178. A letter from the Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting the eighteenth Annual Report on the activities and expenditures of the Office of Civilian Radioactive Waste Management, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Energy and Commerce.

10179. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Ear, Nose, and Throat Devices; Classification of the Transcutaneous Air Conduction Hearing Aid System [Docket No. 02P-0241] received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10180. A letter from the Attorney Advisor, NHTSA, Department of Transportation, transmitting the Department's final rule — Tire Safety Information [Docket No. NHTSA-0 2-13678] (RIN: 2127-AI32) received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10181. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Six Control Measures to Meet EPA-Identified Shortfalls in Delaware,s One-Hour Ozone Attainment Demonstration [DE061-DE066-1036; FRL-7411-3] received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10182. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [MO 164-1164a; FRL 7412-4] received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10183. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri [MO 166-1166a; FRL-7412-1] received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10184. A letter from the Acting Principal Deputy Associate Administrator, Environomental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plan Correction [SIP No. MT23-1-6402; FRL-7412-2] received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10185. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — List of Approved Spent Fuel Storage Casks: VSC-24 Revision (RIN: 3150-AH05) received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10186. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States (Transmittal No. 03-03), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

10187. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Indonesia, Canada and France [Transmittal No. DTC 177-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10188. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Amendment to the International Traffic in Arms Regulations United States Munitions List — received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10189. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report regarding efforts to promote Israel's diplomatic relations with other countries; to the Committee on International Relations.

10190. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the first annual report on the Benjamin A. Gilman International Scholarship Program; to the Committee on International Relations.

10191. A letter from the Chairman, United States Advisory Commission on Public Diplomacy, transmitting the Commission's report entitled, ''Building America's Public Diplomacy through a Reformed Structure and Additional Resources''; to the Committee on International Relations.

10192. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the semiannual report on the activities of the Office of Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

10193. A letter from the Director of Congressional Affairs, Central Intelligence Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

10194. A letter from the Secretary, Department of the Treasury, transmitting the Department's Performance and Accountability Report for FY 2002; to the Committee on Government Reform.

10195. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Statement of Procedural Rules [REG-251003-96] (RIN: 1545-AR99) received November 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

10196. A letter from the Senior Deputy Chairman, National Endowment for the Arts, transmitting 2002 FAIR Act Inventory of Activities; to the Committee on Government Reform.

10197. A letter from the Senior Deputy Chairman, National Endowment for the Arts, transmitting the semiannual report of the Inspector General for the period April 1 through September 30, 2002 and the semiannual report on Final Action for the National Endowment for the Arts, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

10198. A letter from the Acting Special Counsel, Office of Special Counsel, transmitting the FY 2002 Annual Report on the Agency Management of Commercial Activities; to the Committee on Government Reform.

10199. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Lomatium cookii (Cook's Lomatium) and Limnanthes floccosa ssp. grandiflora (Large-flowered Woolly Meadowfoam) from Southern Oregon (RIN: 1018-AF84) received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10200. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Louisiana Regulatory Program [LA-022-FOR] received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10201. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Special Regulations; Areas of the National Park System (RIN: 1024-AD06) received November 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10202. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Magnuson-Stevens Fishery Conservation and Management Act Provisions; Monkfish Fishery [Docket No. 020329075-2124-03; I.D. 031902E] (RIN: 0648-AP11) received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10203. A letter from the Chairman and CEO, Farm Credit Administration, transmitting the Administration's final rule — Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation (RIN: 3052-AC12) received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10204. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Portage Bayou, Pass Christian, MS [CGD08-02-030] (RIN: 2115-AE47) received November 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10205. A letter from the Acting Under Secretary of Transportation for Security, Department of Transportation, transmitting a letter pursuant to Section 110(c)(2) of the Aviation and Transportation Security Act; to the Committee on Transportation and Infrastructure.

10206. A letter from the Attorney/Advisor, Bureau of Transportation Statistics, Department of Transportation, transmitting the Department's final rule — Reporting the Causes of Airline Delays and Cancellations under 14 CFR Part 234 [Docket No. OST 2000-8164] (RIN: 2139-AA09) received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10207. A letter from the Regulations Officer, FHWA, Department of Transportation, transmitting the Department's final rule — Traffic Control Devices on Federal-Aid and Other Streets and Highways; Color Specifications for Retroreflective Sign and Pavement Marking Materials [FHWA Docket No. FHWA-99-6190] (RIN: 2125-AE67) received November 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10208. A letter from the Secretary, Department of Commerce, transmitting the 2002 summary report on federal laboratory technology transfer; to the Committee on Science.

10209. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Adoption of Size Standards by 2002 North American Industry Classification System for Size Standards (RIN: 3245-AF00) received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10210. A letter from the Assistant Secretary for Employment and Training,

Department of Labor, transmitting the Department's final rule — Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002 — received November 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10211. A letter from the United States Trade Representative, Executive Office of the President, transmitting notification that the President intends to initiate negotiations for a free trade agreement with Australia; to the Committee on Ways and Means.

10212. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2002-81) received November 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10213. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Treatment of Loans with Below-Market Interest Rates (Rev. Rul. 2002-78) received November 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10214. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Imposition of Tax (Rev. Rul. 2002-76) received November 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10215. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Special Rules for Certain Transactions Where Stated Principal Amount Does Not Exceed $2,800,000. (Rev. Rul. 2002-79) received November 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BURTON: Committee on Government Reform. H.R. 4187. A bill to amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records; with an amendment (Rept. 107–790). Referred to the Committee on the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. THOMAS:

H.R. 5763. A bill to amend the Internal Revenue Code of 1986 to provide fairness in tax collection procedures and improved administrative efficiency and confidentiality and to reform its penalty and interest provisions; to the Committee on Ways and Means.

By Mr. ETHERIDGE:

H.R. 5764. A bill to provide for the resolution of certain labor issues relating to the merger of the Metro-North Railroad and the Long Island Rail Road; to the Committee on Transportation and Infrastructure.

By Mr. ISRAEL:

H.R. 5765. A bill to promote global efforts to protect biological diversity by protecting the Tongass Rain Forest in the Tongass National Forest, to designate the Duke Island Trumpeter Swan Wilderness Area, and for other purposes; to the Committee on Resources.

By Ms. KILPATRICK:

H.R. 5766. A bill to create Federal advertising procurement opportunities for minority business concerns, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Small Business, 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 Ms. MILLENDER-McDONALD:

H.R. 5767. A bill to accelerate the effective date for the expansion of the adoption tax credit and the adoption assistance programs by 1 year; to the Committee on Ways and Means.

By Mr. ISRAEL:

H. Con. Res. 521. Concurrent resolution urging the Government of Egypt and other Arab governments not to allow their government-controlled television stations to broadcast any program that lends legitimacy to the Protocols of the Elders of Zion, and for other purposes; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII,

452. The SPEAKER presented a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 77 memorializing the Congress of the United States to support construction of memorial at Gateway National Recreation Area; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to the public bills and resolutions as follows:

H.R. 122: Mr. JEFF MILLER of Florida.

H.R. 1319: Mr. PRICE of North Carolina.

H.R. 1602: Mr. WILSON of South Carolina.

H.R. 1613: Ms. NORTON and Mr. GORDON.

H.R. 1774: Mr. HEFLEY.

H.R. 2380: Mr. BAIRD and Mr. BLUEMNAUER.

H.R. 3132: Mr. MENENDEZ and Mr. BOEHLERT.

H.R. 3414: Ms. LOFGREN.

H.R. 4646: Ms. ESHOO.

H.R. 4763: Ms. ESHOO and Mr. QUINN.

H.R. 5257: Mr. HEFLEY.

H.R. 5411: Mr. STRICKLAND.

H.R. 5421: Mr. BOOZMAN, Mr. STUPAK, Mrs. JO ANN DAVIS of Virginia, Mr. PICKERING, Mr. STRICKLAND, Mr. MCINTYRE, Mr. RAMSTAD, Mr. ANDREWS, Mr. GRAHAM, Mr. MOORE, and Mr. GREEN of Wisconsin.

H.R. 5433. Mr. ROSS.

H.R. 5502: Mr. MORAN of Virginia and Mr. SMITH of Washington.

H.R. 5544: Ms. RIVERS and Mr. KENNEDY of Rhode Island.

H.R. 5600: Mr. PALLONE.

H.R. 5644: Ms. WATSON.

H.R. 5649: Mr. PITTS.

H.R. 5742: Mr. PASCRELL and Mr. SMITH of New Jersey.

H. Con. Res. 164: Mr. MEEHAN.

H. Con. Res. 507: Mr. DREIER, Mr. HERGER, and Mr. KIRK.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

94. The SPEAKER presented a petition of the Board of Supervisors of Essex County, New York, relative to Resolution No. 229 petitioning the United States Congress to support an increase in the Federal Medical Assistance Percentage to provide New York counties with medicaid relief; to the Committee on Energy and Commerce.

95. Also, a petition of Charles O. Porter, Attorney at Law, a Citizen of Oregon, relative to a Resolution petitioning the Congress of the United States to support a bill entitled ''The National Reconciliation Act''; to the Committeeon the Judiciary.

96. Also, a petition of Larry Robinson, a Citizen of Texas, relative to a Resolution petitioning the United States Congress regarding Case No. 97–51099, USDC A–97–CA–453 Larry D. Robinson v. State of Texas; to the Committee on the Judiciary.

97. Also, a petition of the City Council of Galena City, Illinois, relative to Resolution No. 02–28 petitioning the United States Congress to support the construction of a 4-lane highway between Galena and Freeport; to the Committee on Transportation and Infrastructure.

EXTENSIONS OF REMARKS

IN HONOR OF REVEREND TYRONE CHESS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Reverend Tyrone Chess for his exceptional service as pastor and founder of Holy Ghost Tabernacle Ministries in Jersey City, New Jersey. Rev. Chess was honored on November 3, 2002, at Holy Ghost Tabernacle's Ninth Annual Anniversary Banquet held at the Marriott International in Newark, New Jersey.

A native of Jersey City, born there in 1956, Rev. Chess has devoted his life to the improvement of his community. Having been a pastor for nine years, Rev. Chess now serves as the social and political chairperson of the Interdenominational Ministerial Alliance, and in the past served as its second vice president. His passion for the well being of humankind led him to participate as a member and chairperson of the Human Rights Commission. Presently, he is a member of the Jersey City Board of Adjustments, and founder and CEO of the Lincoln Center Community Development, Inc.

Reverend Chess began his religious education at Essex County College, and continued his studies at the American Fellowship Seminary. He recently earned a Bachelor of Arts degree in Theology from the Adonai Temple Christian Center Bible Institute.

Rev. Chess is married to Martha Chess and they are the proud parents of five children: Daarina, Thaddeus, Tyrone, Jr., Safiyah, and Zaynah.

Today, I ask my colleagues to join me in honoring Reverend Tyrone Chess for his many years of dedicated service as a pastor and mentor to the Jersey City community. The Reverend's selfless contributions to the community have not gone unnoticed; without a doubt, he is one of New Jersey's most outstanding religious leaders.

HONORING MORGAN WOOTTEN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. HOYER. Mr. Speaker, Morgan Wootten has been changing the lives of young men in the Washington area for the last half century. Last month, Mr. Wootten, the head basketball coach at DeMatha High School in Hyattsville, MD, since 1956, announced his retirement.

Coach Wootten finished his career with 1,274 wins, 44 consecutive seasons with 20 or more wins, 33 Catholic league championships, 16 city titles, and five national championships. Under Coach Wootten, DeMatha finished the season ranked No. 1 in the area, a record 22 times. More than a dozen of his players have gone on to play in the NBA, 150 have received college basketball scholarships, and more than 20 are currently coaching basketball at some level. And two years ago, the all-time winningest high school basketball coach in America was inducted into the basketball Hall of Fame.

But numbers do not tell the story of Morgan Wootten, nor the impact he has had on the lives of those young men he has coached at DeMatha. He is most remembered by his players, and the students in his history classes, for the lessons he taught them about life. Coach Wootten preached to his players the importance of God, family, school and basketball, in that order. His true value is measured in the professional and personal success of those he has taught and coached, and by the number of former players and students who have remained close to him over the years.

Mr. Speaker, President Theodore Roosevelt said that ''To educate a man in mind and not in morals is to educate a menace to society.'' Morgan Wootten has educated several generations of young men in both mind and morals, and I offer him my warmest congratulations on is well-deserved retirement.

HONORING THE OUTSTANDING CITIZENSHIP AND WORK OF MR. BILL COLE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor Mr. Bill Cole, an outstanding citizen of Northern Virginia.

Mr. Cole has completed an exceptional career that has positively impacted our community. As a retired Army Officer with 28 years of service, Mr. Cole's last assignment was with the Department of Defense in helicopter research and development. While holding a master's degree in public administration, Mr. Cole currently works for William W. Cole & Associates, a business consulting firm he formed in 1992. Mr. Cole has also served as General Manager of Capital Lighting & Supply, Inc, an electrical distributor, for 18 years. Concurrently, he was co-owner and Vice President of Shannon Builders, a residential construction company, from 1978–1982.

Perhaps one of Mr. Cole's most important contributions to the community was his service as President of the Occoquan Watershed Coalition, an all-volunteer organization that is committed to the protection of ''The Downzoned Occoquan Watershed'' and the drinking water that it provides. Mr. Cole formed the Occoquan Watershed Coalition in the fall of 1994 and on December 7, 1994, the coalition was recognized as an official organization.

Bill Cole's efforts have motivated others to dedicate their time and energy to improving quality of life for others. He is that rare individual who cares more about doing good than getting credit.

Mr. Speaker, in closing, it is with great pleasure that I extend this recognition to Mr. Bill Cole. His contributions to Virginia and his community have been great. Virginia is proud to have such a distinguished citizen in its professional and social community. I call upon my colleagues to join me in applauding him for all that he has done.

PAYING TRIBUTE TO THE BLOOD OF THE MARTYRS—MARTIN LUTHER KING, JR. BLOOD DRIVE

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to the Blood of the Martyrs—Martin Luther King, Jr. Blood Drive and its sponsors, the Roman Catholic Diocese of Lansing, the American National Red Cross, and the National Black Catholic Congress. This very important blood drive will take place from January 15–22, 2003 as part of National Blood Donor Month.

The Second Annual Blood of the Martyrs—Martin Luther King, Jr. blood drive in 2002 was met with a response of nearly 650 donors, who donated a total of 520 pints. These pints provided a supply of 2,080 blood units to be used for patients needs. I offer heartfelt thanks to all those who gave last year and contributed to this wonderful turnout.

The goal for this year's drive is 1205 productive units of blood which will result in blood supplies for nearly 5000 people. I encourage everyone who is able to donate blood, to do so for this worthy cause—it may be you who saves a life!

Mr. Speaker, at this time in our Nation's History, when our President is encouraging all Americans to serve a purpose greater than themselves, when we must rely on our neighbors, I can think of a few ways to better serve our fellow Americans than by giving the gift of life, by donating blood.

IN HONOR OF THE URBAN LEAGUE OF HUDSON COUNTY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the Urban League of Hudson County for its efforts to revive communities throughout Hudson County, and to congratulate it upon the completion of its new headquarters on Martin Luther King Drive in Jersey City, NJ. To commemorate this event, a ribbon cutting ceremony was held on October 18, 2002, at the site of the new headquarters.

The Urban League of Hudson County is an organization that has stood for human advancement and achievement, and has worked tirelessly to develop and revitalize our urban areas. Its work has given hope and fortune to so many who call the inner city their home.

Project Reclaim is an Urban League initiative created for the redevelopment of the twenty-six block radius of Martin Luther King Drive in the Ward F community of Jersey City. The new headquarters building is a cornerstone of the Urban League's plan to initiate an economic and social renaissance in this community. And with the community's participation, this renaissance will be a lasting and inspiring model for the country.

Today, I ask my colleagues to join me in honoring the Urban League of Hudson County for providing hope to countless families, and for believing in America by investing and revitalizing our urban areas, when others turned their backs on our cities. The Urban League's accomplishments have paved the way for prosperous and healthy communities throughout New Jersey.

CONGRATULATING THE WESTLANDS WATER DISTRICT

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. RADONOVICH. Mr. Speaker, I rise today to congratulate the Westlands Water District of Huron, CA, on the occasion of celebrating 50 years of dedication and service to the communities of the San Joaquin Valley of California on Sunday, November 17, 2002. The 50th anniversary celebration will take place at Harris Ranch in Coalinga, CA.

Farming in the Westlands Water District began during California's Gold Rush era. The first significant irrigation in the Westlands area began about 1915 with the drilling of deep wells by individual operators on large acreages. In 1942, the Westside Landowners Association was established to urge and help finance studies on the feasibility of developing and constructing water supply systems to serve the west side. In 1952, the owners of 400,000 acres of westside land petitioned the Fresno County Board of Supervisors for the formation of the water district. On September 8, 1952, the Westlands Water District was formed.

Westlands is one of the largest agricultural water districts in the United States, with more than 570,000 irrigated acres of diversified crops on some of the most productive soil in the world. Westlands provides water to nearly 600 family-owned farms that average 850 acres in size. Farms within Westlands produce approximately $1 billion worth of food and fiber per year. This translates into $3.5 billion in farm related economic activity, nearly one-third of the $12.5 billion generated by the agriculture-based economy of Fresno County. In addition to food and fiber, Westlands farmers produce jobs, taxes, and strong economic core for the regional economy.

Mr. Speaker, it is my pleasure to congratulate the Westlands Water District of Central California on the occasion of their 50th year anniversary. I urge my colleagues to join me in wishing the Westlands Water District many years of continued success.

HONORING DR. MARTIN EICHELBERGER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. HOYER. Mr. Speaker, Dr. Martin Eichelberger is a Professor of Surgery and of Pediatrics at George Washington University and Director of Emergency Trauma and Burn Service at the Children's National Medical Center, in Washington, DC. He is also president and cofounder of the National SAFE KIDS Campaign, and a nationally recognized pediatric trauma surgeon.

The reason Dr. Eichelberger is so highly regarded became evident on Monday, October 7, when he was called out of a skin graft surgery to begin preparing for a 13-year-old shooting victim who was on his way to Children's Hospital from the Bowie Health Center. The boy had been shot by the Washington-area snipers in front of Benjamin Tasker Middle School, and the dozens of fragments from the sniper's bullet had done extensive and life-threatening damage to a number of the boy's vital organs.

Dr. Eichelberger and his team immediately began to make critical decisions about which organs could be saved, and which ones were beyond repair and needed to be removed. The right decisions were made, and the two and a half hour operation saved the boy's life. Although this brave young man faces a long and challenging road to recovery, I am pleased to report that he has been released from the hospital, and I am hopeful that he will in fact make a full recovery from his injuries.

Mr. Speaker, this 13-year-old young man is one of the countless youngsters who have been touched by the gifts of Mr. Eichelberger and whose lives have been saved or made better by his compassionate dedication to public service. The 1989 United Nations Convention on the Rights of the Child states that ''Mankind owes to the child the best it has to give.'' I am proud to say that in Dr. Eichelberger, we have given Washington area youngsters the best we have.

HONORING THE RETIREMENT OF DUNCAN A. HOLADAY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to recognize and honor Mr. Duncan Holaday upon his retirement after 35 years of devoted service in support of our great Nation. His last position was with the Department of the Navy, where he served as the Deputy Assistant Secretary of the Navy for Installations and Facilities.

Mr. Holaday was born on February 15, 1943 in Berkeley, CA. He graduated from Beloit College in 1965 with a bachelor of arts degree in philosophy. In 1976, he received a master of business administration degree from Syracuse University.

Mr. Holaday began his Government service with the U.S. Army in 1967 as a management intern. Following completion of his training, he spent the next 15 years as an operations research analyst with the Army, serving both in the Pentagon and in Europe as well as with the Office of the Assistant Secretary of Defense for Program Analysis and Evaluation. While in this position at OSD, Mr. Holaday was responsible for analyzing Army and Marine Corps force structure, force basing, military construction, and manpower requirements.

From 1982 to 1987, Mr. Holaday served as a director in the office of the Deputy Assistant Secretary of Defense for Installations. It was there that he implemented the Model Installation Program, which was a highly successful test of the proposition that base commanders could do a better job of running their bases when freed of restraints imposed by headquarters. While at OSD, he also developed and implemented DOD-wide real property and base utilization policies.

He later served as the Director of the Defense Acquisition Regulatory System under the Under Secretary of Defense for Acquisition between 1987 and 1990. From 1990 to early 1993, he was the Executive Director of the Defense Ethics Council.

After leaving the Office of the Secretary of Defense in April 1993 and before joining the Department of the Navy in 1994, Mr. Holaday worked with then Vice President Al Gore on the National Performance Review, NPR. There, he was responsible for improving real property acquisition and management within the Federal Government and oversaw government-wide implementation of NPR recommendations for downsizing and streamlining the Federal workforce.

In October, 1994, he was appointed Deputy Assistant Secretary of the Navy, Installations and Facilities. As the Deputy Assistant Secretary, he was responsible for establishing policy and improving oversight on the Department of the Navy's acquisition, construction, use, management, operation, and disposal of real estate, facilities, and housing at Navy and Marine Corps bases worldwide.

During the transition in administrations, between January and August, 2001, he served as the Senior Civilian Official in the Office of the Assistant Secretary of the Navy for Installations and Environment. As Senior Civilian Official, he was directly responsible to the Secretary of the Navy for the formulation of Department-wide policies and procedures, and for overseeing all Department of the Navy functions and programs relating to environmental protection; Navy and Marine Corps facilities and installations; housing; long-range basing and infrastructure requirements; and safety and occupational health for military and civilian personnel. In this role, he provided stability and continuity during the absence of three presidentially-appointed political appointees.

His accomplishments throughout his career, and especially while serving in the Department of the Navy, are extraordinary. He has worked tirelessly to promote investment in the facilities where sailors and marines live, work, and train. He was at the forefront of the Department's efforts to improve military family housing through the innovative use of privatization authorities allowing partnership with the private sector. During his stewardship, the Department of the Navy was able to realize over $600 million in investment in Navy and Marine Corps family housing, using only slightly over $100 million of its own resources.

To every problem and challenge he has faced, he has brought keen insight and attention to detail that has enabled thoughtful solutions. He demonstrated extraordinary environmental stewardship in successfully shepherding the transfer of land on the western end of Vieques within the timeframes specified by law. He has successfully engaged in the extremely complicated task of negotiations and agreements, allowing the Department to convey base closure property for redevelopment by local communities.

Mr. Holaday has left a remarkable legacy. The hallmark of his service, throughout his career, has been improved living and working conditions for the soldiers, sailors, airmen, and marines who serve our country so bravely, day after day. He has been steadfast in his service to this great nation and his devotion to those with whom he has served. His superb performance has won him countless awards, including the Distinguished Civilian Service Award in 2001. His leadership will be sorely missed. I for one am extremely grateful that he chose to enter public service.

I wish to recognize and thank him for his honorable service and would like to join with his many friends and colleagues, both within the executive branch and here in Congress, in wishing him fair winds and following seas as he and his wife, Mary Margaret, and son, Duncan, continue forward in what most assuredly will remain a life of service to this great Nation.

IN MEMORY OF ELIZABETH HIRD

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. DELAURO. Mr. Speaker, it is with a heavy heart that I rise today to pay tribute to one of the most generous and giving community members I have had the pleasure of knowing. In life, Elizabeth Hird was beloved by all of those whose lives she touched—a true community treasure.

An artist, community leader and active conservationist, Elizabeth was a pioneer in the local efforts for environmental preservation and education—dedicating her time and energies to ensure that our natural resources would be protected for future generations to enjoy. A founding member, and later, director and president of the Killingworth Land Conservation Trust, Elizabeth worked hard to make the public aware of all nature could teach them. She was instrumental in the creation of the Platt Nature Center for environmental education which offers programs throughout the summer to young children. Through these programs, children are able to participate in a variety of activities where they learn to identify the wild flowers and wild life of the area. At part of the last days activities, children were invited to Outer Island, one of the Thimble Islands off the Connecticut coastline, where Elizabeth and her late husband, Basil Rauch, owned a home. Elizabeth hosted the event and children were encouraged to explore the island and the many creatures which call the island home. A unique experience for so many, children of all ages looked forward to this special opportunity.

In 1995, in honor of her husband, Elizabeth donated Outer Island to the United States Fish and Wildlife Service to become an environmental research and education center and part of the Stewart B. McKinney National Wildlife Refuge. Today, students of all ages, from elementary to graduate school, have access to the island and the endless lessons it provides. It was just over one year ago that I joined Elizabeth to announce the establishment of the Outer Island Endowment Fund—a renewed commitment to the preservation of Outer Island, its diverse wildlife, and educational opportunities for our community's young people. In speaking to Elizabeth that day, I knew that her dream for Outer Island had been realized and I was proud to join in the celebration of her vision.

I am honored to stand today in memory of Elizabeth Hird and express my deepest thanks and appreciation for all that she has given to our community. Elizabeth was truly a unique individual who has left an indelible mark on our community. Hers is a legacy which will continue to inspire many for generations to come.

IN HONOR OF THE SOCIETY OF HISPANIC PROFESSIONAL ENGINEERS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the Society of Hispanic Professional Engineers as it hosted the 15th Annual Eastern Technical and Career Conference (ETCC), which was held November 1–3, 2002, at the Sheraton Meadowlands Hotel in East Rutherford, New Jersey.

Despite the many advancements made by Hispanics in the fields of engineering and science, we must continue to ensure equality in the work force for all Americans. The ETCC has made this its focus and, since 1987, has been promoting academic excellence, professional growth, technical opportunities, and the development of ties and connections among Hispanic professionals. These valuable networking opportunities for students and professionals are necessary to promote and provide for a more just work environment.

The second largest Hispanic student engineering conference in the nation, the ETCC attracts over 50 universities along the East Coast. This year, the ETCC is expecting 1,200 Latino college students majoring in math, science, and engineering, and 300 professionals and corporate representatives from Fortune 500 companies to attend.

Today, I ask my colleagues to join me in honoring the 15th Annual Eastern Technical and Career Conference hosted by the Society of Hispanic Professional Engineers. New Jersey is fortunate to have organizations that provide opportunities for students and professionals to explore what being Hispanic and being a professional can mean. My best wishes for a successful conference.

HONORING SPECIAL AGENT LOUIS PAUL RUSSO

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to honor a distinguished FBI agent from the Bureau's Detroit Division on the occasion of his retirement. On June 28, 1971 Louis Paul Russo entered on duty as a Special Agent of the Federal Bureau of Investigation. On October 1, 1971 SA Russo reported to the Detroit Division. Director J. Edgar Hoover transferred SAA Russo from Detroit, to the Lansing Resident Agency beginning January 11, 1972. On December 21, 1972 SA Russo was transferred to the Cincinnati Division. SA Russo served in Cincinnati for over 16 years before he was reassigned to Detroit arriving on October 2, 1989.

SA Russo successfully worked a broad spectrum of cases including, Bank Robberies, Civil Rights, Auto Theft, Labor Violations, Fugitives, Counter Intelligence, and Organized Crime. Agent Russo spent his entire career as what is commonly called a ''street agent.'' Street agents are the agents that solve the cases, make our neighborhoods safe, and protect these United States from our enemies; foreign and domestic, all at a great personal sacrifice to themselves and their families.

I am aware from Agent Russo's co-workers that right up to his last days ''on the rolls'', Special Agent Russo came to work early, poured over his files, ''hit the streets'' and got the job done. After September 11, 2001 SA Russo, while attending to his other cases, enthusiastically reengineered himself to transition with the Bureau in their new focus on the investigation of Terrorism, all with more energy and sense of purpose than most agents 30 years younger than he.

I have heard him affectionately referred to as a ''one man squad''. Agent Russo was always going above and beyond. I am aware of an instance where Agents on the organized crime squad in Detroit where assigned to fan out across the Motor City looking for evidence of construction equipment thefts that had allegedly occurred many years earlier; all to verify the credibility of a witness. They were only looking for evidence that such thefts had been reported; so many years had gone by, any leads were certain to be cold. The agents one by one returned at the end of the day with the various proofs that these pieces of equipment had in fact been reported stolen. Agent Russo also came back to the office with police reports to verify the long ago reported thefts and with a backhoe and other heavy equipment in tow, he had not only verified the thefts, he had recovered the stolen property. SA Russo has received letters of commendation from every Director that the Federal Bureau of Investigation has ever had. SA Russo consistently received top job performance reviews and he has garnered many letters of appreciation from Assistant United states Attorneys. Most importantly, SA Russo has earned and kept the respect of every agent he has ever served with. He has diligently protected the citizens of the great State of Michigan and the citizens of this great nation with enthusiasm, dedication and pride.

Special Agent Russo exemplifies the finest traditions of the FBI and of the Bureau's motto of ''Fidelity, Bravery, and Integrity''. His efforts and his example have made the FBI the enduring and honorable institution that it is. He will be missed when he retires December 31, 2002, having served for over 31 years as a Special Agent. From this former Special Agent, on behalf of the State of Michigan and this Nation; thank you, Louis Paul Russo.

HONORING DR. ALICIA JUARRERO: OUTSTANDING COMMUNITY COLLEGE PROFESSOR OF THE YEAR

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. WYNN. Mr. Speaker, I rise today to honor Dr. Alicia Juarrero, a professor of philosophy at Prince George's Community College, who is being honored by the Carnegie Foundation for Advancement of Teaching and The Council for Advancement and Support of Education as the Outstanding Community College Professor of the Year.

Dr. Juarrero at Prince George's Community College, located in my congressional district in Largo, Maryland. She has been nationally recognized among her community college colleagues as the best of the best. Dr. Juarrero's accomplishments speak to the caliber of professors at the community college level. Often times the invaluable work of our community college professors goes unrecognized, so it is especially rewarding for a local professor from my district to receive such an honorable award.

Dr. Juarrero earned her undergraduate degree, master's and Ph.D from the University of Miami. She has been a professor at Prince George's Community College since 1975. Dr. Juarrero starts each semester with great zeal, beginning with a quote from Plato: ''Thinking is the talking of the soul with itself.'' She has been called a ''teacher's teacher,'' often serving as a great resource for her follow colleagues.

It is truly an honor to have Dr. Juarrero as a professor at Prince George's Community College. She is a great reflection of a tremendous institution. I urge my colleagues to join me in honoring a gifted and highly respected teacher.

TRIBUTE TO BROOKINGS FELLOW ROBERT M. HARTT

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to pay tribute and gratitude to Mr. Robert M. Hartt. Recently, Mr. Hartt has ended a six-month fellowship with the Brookings Institution and will be returning to his position at the Committee for Purchase From People Who Are Blind or Severely Disabled.

While working in my office, Mr. Hartt brought an aspect to disabilities issues that shed a new light to legislation and office policies. Mr. Hartt passionately used his personal experiences as a man with a vision impairment to ensure improvements be set forth in computer software, educational textbooks and healthcare for all individuals with disabilities. His advocacy and strength instilled a renewed hope that one day our nation will have equality for all people.

Again, Mr. Speaker, I would like to thank Mr. Hartt for his exceptional hard work for the residents of Illinois 7th Congressional District and America's disability community.

IN REMEMBRANCE OF CATHERINE E. TODD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to remember Catherine E. Todd, who passed away on June 26, 2002. On Wednesday, November 6, 2002, the Jersey City Housing Authority held a dedication ceremony in her memory at the Montgomery Gardens Community Center in Jersey City, New Jersey.

Born on October 10, 1938, Catherine led a life of selfless dedication to those in need. She devoted 48 years of her life to the residents of Montgomery Gardens Housing Complex, contributing both time and energy in assisting residents in every possible way. Her tireless efforts on behalf of the residents of the Jersey City Housing Authority facilitated a sense of community and fostered a sense of home for all.

In 1954, Catherine began her battle on behalf of the residents of Montgomery Gardens. During the 1960s, she rose to positions such as building captain, community organizer, Montgomery Garden's site improvement committee member, and Montgomery Garden's liaison committee member. In 1978, Catherine became the Chairperson of the Montgomery Gardens tenant management corporation board, and regularly met with residents to ensure that their needs were being fulfilled and that they were aware of all programs available to them. In 1996, she was also elected to the office of chairperson of the Jersey City tenant affairs board.

Catherine is survived by her two children, Henry and Jo Ann, and three grandchildren, Hanifah, Sharifah, and Hasan.

Today, I ask my colleagues to join me in remembering Catherine E. Todd for her great concern for the residents of the Jersey City Housing Authority. She extended her heart and her hand to help improve the quality of life for each person she encountered and she will be missed not only by her Jersey City Housing Authority family, but by the entire Jersey City community.

PAYING TRIBUTE TO JIM AND SUE WHEELER, ANGELS IN ADOPTION HONOREES

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the accomplishments of Jim and Sue Wheeler of East Lansing, Michigan, who were chosen as the 2002 8th Congressional Angels in Adoption honorees.

Jim and Sue Wheeler's personal dedication to raising 10 children, several of them adopted, makes them deserving of our respect and admiration.

Each year, the Congressional Coalition on Adoption Institute honors families or organizations who have shown a real commitment to improving the lives of children through adoption. Jim and Sue Wheeler are the role model for families who care about children. Their long-range impact on this nation will be felt for decades and generations to come and I was honored to sponsor them for recognition as Angels in Adoption.

The Wheelers are among 140 honorees from the 50 states who were recognized at special ceremonies in Washington, D.C. earlier this year.

Jim and Sue Wheeler married in 1984. She was a professor at Michigan State University.

''We had an 'ours-mine-yours' relationship,'' Jim told us. He had two children from a previous marriage and Sue had a daughter from a first marriage. Then they had a child together in 1986 and thought they were through.

But the Wheelers decided they would like to have a larger family and thought maybe there were children out there who needed a home. Since then Jim and Sue have had six more children by adoption through Catholic Social Service of Lansing/St. Vincent Home. Their diverse family of 10 children now represents three races!

Mr. Speaker, I ask my colleagues to join me in honoring this very special couple and their family. They are truly deserving of our respect and admiration.

TRIBUTE TO CHIEF CHARLES A. MOOSE

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. WYNN. Mr. Speaker, I proudly rise today to honor Montgomery County Police Chief Charles A. Moose for his exemplary work on the investigation of the sniper shootings that recently plagued the Washington Metro Region. I would like to commend Chief Moose for exhibiting great patience and humility amidst the frenzied media coverage, which was marked by excesses and speculation.

Chief Moose exhibited tremendous leadership and excellent teamwork by coordinating with other jurisdictions and law enforcement agencies. Chief Moose directed a multi-agency task force, whose work led to the eventual capture of the sniper suspects. Chief Moose became the public face of the investigation, holding daily press briefings, and consoling the public when a child became a victim of the sniper attacks.

Throughout the sniper shootings, many in the community looked to law enforcement to reassure their ever-present fears. Chief Moose served as a calming and informative spokesman, providing the public with needed information and a community oriented perspective.

Although Chief Moose has just recently come to national attention, he has always been active in the local community and has

received numerous awards for his law enforcement and community activity. Along with his role as Chief of Police, Moose teaches criminology at the local community college, and serves as a Major in the District of Columbia National Air Guard. Chief Moose is clearly a tremendous leader, and an invaluable member of the Montgomery County Police force who has a bright and promising future ahead of him. It is truly an honor to have him serve in our community.

Mr. Speaker, I want to again thank Chief Charles A. Moose for his work in helping to apprehend the sniper suspects, and returning our community to normal. I urge my colleagues to join me in recognizing an honorable and professional member of the law enforcement community.

CONDEMNING ANTI-SEMITIC SENTIMENT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. PALLONE. Mr. Speaker, I rise today to draw attention to the disturbing rise in and acceptance of Anti-Semitism in the Arab world.

An Egyptian satellite television station recently produced and is currently airing a new series that its producers openly acknowledge is partially based on a century old anti-Semitic tract entitled ''The Protocols of the Elders of Zion.''

''The Protocols,'' which have long been dismissed by historians as false, are a work of fiction fabricated in czarist Russia to perpetuate and justify anti-Semitic violence and persecution. ''The Protocols'' were a series of 24 documents reportedly written by Jewish leaders that outline a plan for global domination by the Jewish people. They were later used again as anti-Jewish propaganda in Nazi Germany and are still used to this day by neo-Nazis and white-supremacist groups.

The New Egyptian series, entitled ''Horse Without a Horseman,'' is looking to breathe new life back into this cornerstone of anti-Semitic hatred. The 41-episode television series, created specifically to air during the Islamic holy month of Ramadan, traces the history of the Middle East from 1855–1917. With a prime evening timeslot, the series is expected to have excellent viewership, as families gather at home to break the daily fast. This puts the series in the unique position to bring anti-Jewish sentiment into millions of homes throughout the Middle East. Israeli and American Embassy officials have raised concerns over the use of the fictional and inflammatory ''Protocols'' with the Egyptian government, but to no avail.

With the increase in attention given to ''The Protocols'' in the Arab media, many believe that the imagery present in ''Horse without a Horseman'' is indicative of the rise in anti-Semitism in the Arab world since the September 11 terrorist attacks.

Even here at home, The Arab Voice, a local Arab newspaper in New Jersey, recently printed excerpts from ''The Protocols.'' Despite knowledge that ''The Protocols'' are forgeries and have been used to incite anti-Jewish hatred and violence, the editors of The Arab Voice called ''The Protocols'' an ''educational tool'' for their readers.

The irresponsible decision by The Arab Voice to give credence to ''The Protocols'' by reprinting the falsehoods in their paper only fuels and further perpetuates the tension between the Arab and Jewish communities. At a time when the American-Arab and Jewish communities could be making an effort to improve communication and cooperation, The Arab Voice's printing of ''The Protocols'' is both irresponsible and inflammatory.

I ask my colleague to join with me in condemning ''Horse without a Horseman,'' The Arab Voice and any perpetuation of anti-Semitism either abroad or at home. It is critical that we remain vigilant and not allow attempts to spread hatred to be ignored or continued.

HONORING THERESA SIRICO FOR HER OUTSTANDING CONTRIBUTIONS TO THE COMMUNITY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to an outstanding member of the New Haven community—Theresa Sirico. The founder of the Louis and Joan Sirico Center for Elders and Families at Southern Connecticut State University, Theresa's generosity and compassion will touch the lives of thousands throughout Greater New Haven and millions across the country.

As a child, I knew Louis and Joan Sirico as neighbors and friends, working with my parents to enrich our neighborhood. The Siricos were both active advocates for our families and our community. Much as my own parents, they passed these values to their seven children. Both Louis and Joan suffered strokes, left without the abilities to care for themselves. In both instances, their family members came together to provide them the care they needed through their last days. However, not all are fortunate enough to have families who are willing or able to take on these challenges.

With the ''baby boomer'' generation approaching retirement age, more and more of our nation's seniors are looking for access to the care and companionship they need and rightly deserve. Theresa Sirico, recognizing the need for increased interest in geriatric care, took action. With a generous donation of a quarter of a million dollars, Theresa started the effort to establish a national model for improving the quality of life for our seniors. With a large anonymous donation, fund-raising efforts, and matching funds from the State Department of Higher Education, Theresa's vision of the Louis and Joan Sirico Center for Elders and Families became a reality.

The Sirico Center combines both undergraduate and graduate studies with hands-on workshops and seminars. Blending the studies of nursing, social work, and public health, the Center will be an invaluable resource for those interested in geriatric care. In a time when our nation is facing an ever increasing senior population and a lack of geriatric health care professionals, the Sirico Center is sure to be an asset not only to the Greater New Haven area, but to communities throughout the nation. The Sirico Center for Elders and Families will not only provide education for health professionals, but will generate excitement and interest in the field of geriatric medicine. This is the true gift of Theresa Sirico.

I am honored to rise today to join family, friends, and the staff and faculty of the Louis and Joan Sirico Center for Elders and Families in extending my deepest thanks and appreciation to Theresa Sirico for her outstanding contributions to our community. Seniors and their families will benefit greatly from her unique vision and unparalleled dedication.

HONORING MS. MARILYN MIGLIN OF CHICAGO

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. DAVIS of Illinois. Mr. Speaker, I want to take a few minutes today to speak about one of my constituents who is making a most remarkable contribution to the people of Chicago and the entire Midwest. Marilyn Miglin is involved in an extraordinary range of public service activities and maintains a remarkable schedule.

Ms. Miglin originally suggested the notion of an advisory board for the University of Illinois Craniofacial Center in 1987. The Craniofacial Center of the University of Illinois provides medical services for patients with facial deformities.

But Marilyn Miglin went far beyond the offer of a suggestion. She began volunteering time from her busy schedule to assist the physician team at the Craniofacial Center in adding a new dimension to the patient services offered by the Department. She began coming regularly to the center to see patients with facial deformities and to show them how to apply makeup to hide their condition, or to draw attention away from the condition.

Not satisfied with superficial appearance, Ms. Miglin recognized the need to go beyond what one could see at the surface, and reached patients in a deeper and more profound way: helping each individual realize their inner beauty and self worth. Out of this personal growth came the renewed confidence and self assurance necessary to deal with everyday life;

Therefore, Mr. Speaker, I am especially pleased to take this opportunity to acknowledge and congratulate Marilyn Miglin for her support and dedication to the patients and staff of the University of Illinois Craniofacial Center.

IN HONOR OF REVEREND RALPH E. BROWER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Reverend Ralph E. Brower for 47 years of outstanding service to our community as a leader and senior pastor at Saint Michael's Methodist Church. Rev. Brower was honored at a banquet at the Casino in the Park in Jersey City, New Jersey, on November 10, 2002.

For the past 47 years, Reverend Ralph E. Brower has been a tireless advocate on behalf of his community and congregation, ensuring that no one in the community is left behind. A true leader, Rev. Brower has served for the past 27 years as president of the Interdenominational Ministerial Alliance, and the past 25 years as chaplain for Hudson County. He has served in several city administrations, and is currently the president of the United Black interdenominational Clergy (VBIC) of New Jersey, the state's largest African-American clergy organization.

His selfless actions have not gone unnoticed, and he has been honored by New Jersey's Urban League, the National Association for the Advancement of Colored People of New Jersey, and the New Jersey State Federation of Colored Women's Clubs.

The fourth of six children, Rev. Brower was born and raised in North Carolina, but decided to make New Jersey his home. He is a graduate of the Laurinburg Institute and Kettle College of North Carolina, attended Florida State Christian College in Fort Lauderdale, Florida, earned his Bachelor of Arts degree from Jersey City State College, and his Doctorate of Sacred Theology from the Baltimore Bible College.

Rev. Brown is married to Alberta Hazel-Brower, and they are the proud parents of three children: two sons, Ralph, Jr. and Ronald, and one daughter, Denise.

Today, I ask my colleagues to join me in honoring Reverend Ralph E. Brower for close to 50 years of service as a leader and senior pastor to the Jersey City community. Let us all join together and take this opportunity to honor an exceptional man, setting an outstanding example for our community. Thank you Rev. Brower for all that you do.

CONGRATULATING J.S. WEST FAMILY AS 2002 AGRICULTURAL HALL OF FAME INDUCTEE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate the J.S. West family for receiving the 2002 Agricultural Hall of Fame Inductee Award at the Stanislaus County Ag Foundation's Agricultural Hall of Fame Ceremony in Modesto, California on December 5, 2002. This notable group of Stanislaus County Legends of Agriculture honors individuals and families who have worked to make agriculture the county's number one industry.

The Agricultural Hall of Fame members sacrifice and labor to produce crops from poultry and livestock to fruits and vegetables. These members and their families have made a mark on the Central Valley's local agricultural industry and community, as well as influenced the state, nation, and the world.

In 1909, J.S. West and Company began with the purchase of the Merced Milling building and a lease of land from the Southern Pacific Railroad in Modesto, California. James West worked with farmers on yearly contracts and sold sacked grain to brokers and customers. As the business grew, the family diversified into coal, wood, and fertilizers. After a fire destroyed the feed mill in the 1950's, a modern feed mill was built to supply feed to the poultry and cattle industry. This resulted in a full line of retail stores that are now carrying their supplies. The J.S. West family expanded upon their enterprise by making ice, selling fuel oil, operating an automobile service station and tire shop, and they recently closed a furniture store which they had operated since 1950.

The family also developed an egg contracting business in the 1950's, and today its members are still heavily involved in the poultry and egg industry at both state and national levels. The West family packs eggs for over sixty labels and frozen liquid eggs in their Hilmar processing plant. From feed to eggs and ice to propane, the West family continues to make a difference in the agricultural industry worldwide.

Mr. Speaker, I rise today to congratulate the J.S. West family for earning the 2002 Agricultural Hall of Fame Inductee Award. I urge my colleagues to join me in wishing the J.S. West family many years of continued success.

HONORING THE YALE-NEW HAVEN TEACHERS INSTITUTE ON THEIR 25TH ANNIVERSARY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the New Haven and Yale University communities in celebrating the 25th anniversary of the Yale-New Haven Teachers Institute—a unique and highly successful partnership between the New Haven Public School System and Yale University.

I have often spoke about the importance of education and the vital role it plays in our communities—especially for our urban youth. Today, it is more important than ever for our nation's teachers to have access to the skills and resources they need to prepare our children for the future. That is the mission of the Yale-New Haven Teachers Institute. For a quarter of a century, the Institute has been providing area educators with the opportunity to strengthen themselves professionally through annual seminars in the humanities and sciences. In addition, the Institute works with program participants to bring the curriculum and lessons of the seminars to the classroom. The teachers who have participated in this program have demonstrated a unique commitment to our young people. These are educators who are truly dedicated to ensuring that our children—our future—have the talented and creative teachers they need and deserve.

Just four years ago, the Institute forged ahead with a new goal. With just over one million dollars in grant funding, the Institute set out to replicate its program in four other cities across the country. This venture has been a success and has proven that the partnerships that are fostered between local public schools and universities can and will enrich the lives of our young people. New Haven has certainly benefited from this tremendous organization which has not only touched the lives of so many teachers, but countless numbers of our children. The Institute has earned a distinguished reputation and has been recognized at every level of government as a model for all communities.

For all that they have given to the families and children of New Haven and for all of their good work across the country, I am proud to stand today to extend my sincere congratulations to the Yale-New Haven Teachers Institute as they celebrate their 25th Anniversary.

THANKING MY CONGRESSIONAL STAFF

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. GEKAS. Mr. Speaker, the end of a congressional career brings about many emotions. Over the last twenty years I have happily spent representing the fine people of the 17th Congressional District of Pennsylvania I have had the pleasure of working with thousands of constituents, local, state and federal officials, and many former and current distinguished members of the U.S. House of Representatives and the U.S. Senate. To all of them I say, thanks for working with me towards a better America.

And, of course, every Member of Congress works with many, many competent staff, from the staff in their own personal offices to the Committee and Subcommittee staff and the leadership and floor staff. It has often been said that without staff where would this institution be? And I concur with that statement, for without the many fine staff with whom I have had good fortune to work, I and other Members of Congress of the United States would be far worse off. While I cannot mention all the fine staff who have worked with me over the years, let me at least mention the current personal and subcommittee staffers who have endeavored to achieve our common goals and to whom I give my hearty thanks and wish them well in their future careers.

In my Harrisburg district office, Arlene Eckels, my long-time personal secretary who has worked for me since the early days in the Pennsylvania State Senate and to whom I wish a happy and much deserved retirement; Tom Templeton, my hardworking district director, who so ably kept my entire district staff working smoothly; Suzanne Stoll, and old friend and superb caseworker; Paul Giannaris, whose ability to handle INS problems has made him invaluable; and Tim Vollrath, a recently returned former employee whose military and veterans help has been superb. In our Lebanon Office, Reg Nyman has been the voice of Lehbanon for these many years, and his excellent knowledge and service will be missed. And in our Elizabethtown office, Susan Melendez has kept out Lancaster County constituents well served by her kind and efficient manner. Over the last twenty years my district office staff has handled hundreds of thousands of phone calls and constituent casework requests. A superb record by a superb staff.

My Washington office staff have proven themselves time and time again, regularly going beyond the call of duty. (The tally of my hundreds of legislative measures, nearly 30 Public Laws, thousands of office meetings and countless committee and other initiatives over

the years speaks truth to that assertion.) First, on my personal staff, Patrick Sheehan, my Counsel and Legislative Director, has been a dynamic and intelligent thinker and leader, who offered sage advice on immigration, military and veterans affairs; Greg Helman, my Senior Legislative Counsel kept pace with my many Judiciary and legislative demands, especially bankruptcy reform and appropriations (as I would expect from a Palmyra, PA native); Becky Smith, my office manager and health legislative assistant, kept my schedule and personal affairs humming along smoothly and ably managed my most favorite of projects, the Congressional Biomedical Research Caucus of which I was founder and Co-Chairman; David Greineder, who did a multitude of duties as my talented systems manager, legislative correspondent and Legislative Assistant covering education and labor issues; Bill Tighe, another LC and Legislative Assistant whose insights into the Agriculture and Natural Resources needs of Pennsylvania and the district were more than invaluable, they were accurate; Mike Shields, my recent press secretary extraordinaire, who did an excellent job under difficult situations; and, of course, Allan Cagnoli, my long time Chief of Staff from Hershey, PA, a superb leader of the office and jack-of-all-trades who kept the office running and productive no mater what the crisis.

My Judiciary Subcommittee on Immigration, Border Security and Claims, of which I was Chairman, was ably staffed by George Fishman, Lora Ries, Art Arthur, Cynthia Blackston and Emily Sanders, as well as Brian Zimmer of the full Committee staff. They handled the extremely important legislation necessitated by the new domestic and international threats we now face. Their assistance to me during the challenges of this year is impossible to measure. The House of Representatives has much to look forward to with their continued work.

And last but not least, is the Subcommittee on Commercial and Administrative Law, of which I was a member this last Congress but on which I served as Chairman from 1994–2000. On this subcommittee we dealt with the hundreds of regulator reform issues developed by the Republican Majority through the Contract With America and following initiatives. My major Bankruptcy Reform measure began with me in this subcommittee; Administrative Law Judges; Legal Services Reform; the Federal Agency Compliance Act; The Regulatory Fair Warning Act; Executive Orders; Internet Tax reform; the Federal Arbitration Act; Interstate Compacts; the Independent Counsel Act; and many, many other topics. While bankruptcy reform took center stage, there was no end to the amount of topics and work my staff and I pursued. For this I thank them, the current and former staffers of the subcommittee, for all their exceptional work: Chief Counsel Ray Smietanka, who has worked with me as my chief committee counsel since I came to the 98th Congress in 1983; Susan-Jensen Conklin, whose superb work on bankruptcy reform got us where we are today; Rob Tracci, formerly of the Subcommittee, was an invaluable source of assistance; and all the other members of the CAL staff who have helped this Member of Congress over the many productive years. I thank them all for their work to the Nation and me.

To all I have mentioned, and those who I have regrettably not, please accept my sincere thanks for making my tenure in the United States House of Representatives a productive and pleasant one. Any current Member of Congress or Committee would be well served by the high-quality staff with whom it has been my pleasure to work over these many years.

HONORING JOHN KORREY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to honor John Korrey of Iliff, CO, who recently received the 2002 World Champion Livestock Auctioneer title.

John is an extraordinary auctioneer, a skill that is highly admired in eastern Colorado. His talent helps ranchers earn top dollar for their stock. In fact, John has received other top accolades for his talent, including the Greater Midwest Champion Livestock Auctioneer in 2002 and International Champion Livestock Auctioneer in 1998. John is only one of four individuals globally to hold these three titles.

John Korrey is a native of Iliff, CO. Raised as a family farmer and rancher, John now runs Korrey Auctions, his own business, and is partner in Premier Livestock Exchange. At home, John enjoys farming with his wife Janna and his daughters Heidi and Lacey.

Mr. Speaker, I congratulate John Korrey and ask the House of Representatives to join me in wishing him success as World Champion Livestock Auctioneer.

HONORING THE RETIREMENT OF MR. AL AKERS

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor Mr. Al Akers upon his retirement as President of the Occoquan Watershed Coalition on December 1, 2002.

Mr. Akers' resume and accomplishments speak for themselves. He holds masters degrees in both business administration and international relations, and he is a graduate of the Advanced Management Programs at the Claremont Graduate School and the University of Southern California. After retiring from the U.S. Army as a major general, Mr. Akers helped launch two companies and was the executive director of a non-profit organization.

Not only does Mr. Akers have an impeccable career on paper, he has had a great and tangible impact on his community. In 1993, he served as chairman of the Superintendent's Community Advisory Counsel for Fairfax County Public Schools. Then, in 1995, he was selected as Lord Fairfax for the Springfield District, and also became a member of the Task Force on Fairfax County Resources and Expenditures. Mr. Akers served as a member of the Lorton Task Force from 1995–1997 and as vice chairman of the Springfield District Council. In addition to serving as vice chairman of this council, Mr. Akers was, and remains a member.

Perhaps one of his most significant contributions has been his work with the Occoquan Watershed Coalition, an all-volunteer organization committed to the protection of ''The Downzoned Occoquan Watershed'' and drinking water it provides. Mr. Akers served as vice president of the Occoquan Watershed Coalition from 1994–1999, in addition to serving as the coalition's representative to the Fairfax County Federation of Citizen's Association since 1995.

It is his tenure as President of the Occoquan Watershed Coalition we recognize today.

Mr. Speaker, in closing, it is with great pleasure that I extend a wholehearted thank you to Mr. Al Akers. His contributions to Virginia and his community have been great. Virginia is proud to have such a distinguished citizen in its professional and social community. I call upon my colleagues to join me in applauding him for all that he has done.

LEBANESE INDEPENDENCE DAY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. ENGEL. Mr. Speaker, I rise today to commemorate, but not celebrate Lebanon's Independence Day. Fifty-nine years ago, Lebanon gained its independence from France. Yet, today, Lebanon is no longer a sovereign and independent country. With 25,000 Syrian troops occupying Lebanon, it remains firmly in the grip of Damascus, without the ability to conduct its own affairs without first seeking the approval of the Assad regime.

More than 2 years ago, Israel completely withdrew its armed forces from southern Lebanon. This withdrawal was certified by the United Nations. The time is long past due for Syria to leave, as well, and for the Lebanese to run Lebanon.

As the author of the Syria Accountability Act, I thank the 172 members of the U.S. House of Representatives and the 45 members of the Senate who joined as cosponsors of our legislation. We have together shined a bright light on the injustice of the continuing Syrian occupation of Lebanon and have only added to the growing campaign to liberate Lebanon.

So, on this 59th anniversary of Lebanese independence, I stand with the Lebanese people who seek freedom and democracy for their beautiful country and peace for the entire region. It is my hope that some time soon, Lebanese Independence Day will not only be a commemoration, but will once again be a celebration.

HONORING PATTI REILLY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today in recognition of Patti Reilly upon her retirement as Mariposa County District I Supervisor. Patti Reilly has shown her dedication to the citizens of Mariposa and District I through years of active involvement and leadership.

Patti Reilly has demonstrated her community involvement through her years of service on numerous projects, boards and commissions. She was first elected to the Mariposa County Board of Supervisors in 1994 and reelected for her second term in 1998, serving as Chair the same year. On the board she served as liaison member to the Fiscal and Education Services, the Health and Human Service areas, and on Yosemite Park issues.

Patti Reilly has helped shape the future of Mariposa by serving on the Planning Commission and acting as Chair of both the Local Transportation Commission and the Housing Authority of the County of Mariposa. She has championed economic development, education, justice, and youth development.

Mr. Speaker, I want to congratulate Patti Reilly for her years of service to Mariposa and for her distinguished community involvement. I invite my colleagues to join me in wishing Patti Reilly many more years of continued success.

PAT FINUCANE REPORT IN NORTHERN IRELAND

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. PALLONE. Mr. Speaker, I rise today to call on the London Metropolitan Police Commissioner Sir John Stevens to expeditiously complete the report on the February 1989 killing of Pat Finucane in Belfast. Sir Stevens has been investigating this case for almost 3 years.

Pat Finucane was shot and killed by British-Loyalist paramilitaries while he sat eating a Sunday meal with his wife and three children. Since his murder in 1989, Amnesty International and the United Nations have called on the British Government to investigate any collusion between the RUC/British Government officials and the Loyalist paramilitaries. Unfortunately, after 3 years of investigation still no report has been made public.

Prior to being murdered, Mr. Finucane was a human rights lawyer who defended several individuals that were detained by the RUC. According to the UDA, Ulster Defense Association, which claimed responsibility for his murder, Mr. Finucane was profiled as an individual who was helping support the procatholic, pro-Republican cause in Northern Ireland.

Last week, Sir John Stevens announced, for a second time, that the Finucane report would be delayed as a result of a British military witness being reluctant to speak to the police. Stevens claims that the report will be released 'before next spring', however, there continues to be speculation that the report may be delayed further should a public inquiry be ordered.

There are few who will dispute the facts in this case. According to Brian Nelson, a former British military intelligence agent who also served as chief intelligence office of the UDA, he directly assisted in the targeting of Pat Finucane and passed a photograph of Pat Finucane to a UDA member just days before the killing. However, Mr. Nelson claims have never been examined in an open court.

To date no one has been prosecuted for the murder of Pat Finucane.

The facts in this case seem quite straighforward—once again a pro-Loyalist police force used its authority to further sectarian rule and continue the rash of violence against the Catholic Community.

I call on Prime Minister Tony Blair and London Metropolitan Police Commissioner Stevens to finally release the current report and then immediately open a full public inquiry into this matter. My hope is that by putting an end to this long drawn-out process we can bring both justice to the individuals who undertook this gruesome act and take steps to ensure that this doesn't happen again.

This whole matter once again reinforces my belief that for too long both the British government, along with their police force, and the Loyalist paramilitary groups in Northern Ireland have worked in tandem to usurp the rights of the Catholic Community.

A full public inquiry into this matter will show the world that the only way peace can last in Northern Ireland is for a full fair and just reform in policing in Northern Ireland. Northern Ireland must immediately implement all of the Patten Commission's recommendations on policing.

Mr. Speaker, if there is to be a just and lasting peace in Northern Ireland we must learn from what happened to Pat Finucane and ensure that it never happens again.

HONORING MS. LESLIE TOURIGNY

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. DAVIS of Illinois. Mr. Speaker, I take this opportunity to thank Ms. Leslie Tourigny for serving the residents of the Seventh Congressional District in her capacity as an American Political Science Association Fellow.

Ms. Tourigny spent the last year making significant contributions in the areas of: Postal Reform, Civil Service, and Defense issues. She also did an outstanding job of responding to constituent mail and inquiries.

Ms. Tourigny came to my office with more than 29 years of experience in the Federal Government. The ideas that she brought and passion for public service enhanced my office greatly. She operated as a senior staff person, and was willing to go the extra mile. Her attention to detail and diligence were greatly appreciated.

As Leslie returns to the Defense Intelligence Agency I wish her well. Again, on behalf of the residents of the Seventh Congressional District, I commend and congratulate Leslie for her outstanding work.

PASSAGE OF H.R. 4750

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. FARR of California. Mr. Speaker, I rise today to give sincere thanks to Chairman HANSEN, Ranking Member RAHALL and the staff of the Resources Committee for their efforts to move H.R. 4750 through this chamber in the final hours of the 107th Congress. I am pleased to inform you Mr. Speaker, that the other body has passed this legislation as well and it is on its way to the President. This legislation designates as wilderness more than 50,000 acres of land in the Central Coast of California, adding another jewel in the crown of Big Sur.

Mr. Speaker, since this legislation passed without committee action, it was not possible to get a Committee Report so I want to inform you of my intentions in regard to H.R. 4750. The Big Sur region is a rough, wild, sparsely populated area full of scenic vistas and should be managed as such. In regard to wilderness fire management, it would be beneficial to have a management plan for the Ventana and Silver Peak areas prepared, following their designation as wilderness, that would authorize the Forest Supervisor of the Los Padres National Forest to take whatever appropriate actions are necessary for fire prevention and watershed protection. This would include, but not be limited to, acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Ventana and Silver Peak Wilderness areas should be incorporated in the planning for the Los Padres National Forest.

This language is a slight modification of language enacted in 1977 as part of the legislation initially designating the Ventana wilderness area. The thought is that current language be as close to original language as possible. Local USFS staff have indicated that under normal agency procedures, the decision to utilize this existing authority would have to be made at the regional forester level or higher. The practical impact is that the existing authority has never been used. This language seeks to make the existing authority more useful by authorizing the decision at the forest supervisor level.

Mr. Speaker, in regard to military training at Fort Hunter-Liggett, I suggest that we do nothing to preclude existing low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas. In regard to military access all non-motorized access to and use of the wilderness areas designated by this Act for military training should be permitted to continue in the same manner and degree as permitted prior to enactment, subject to reasonable regulation by the land manager. This language will apply to the proposed wilderness areas adjacent to Fort Hunter-Liggett. The non-motorized use language covers a variety of training activities that the military has undertaken in the National Forest. Currently, the two agencies have an MOU that governs such activities. I would encourage a new MOU be developed to account for the change to wilderness.

Mr. Speaker, the Central Coast is a unique ecosystem in itself. For example, only in this area will you find giant redwoods growing in the same drainage as a yucca plant. Because of this great diversity our area faces constant assaults by invasive species. The spread of invasive species continues to inflict great damage to the Big Sur region's environment. Such plant species as South American pampas grass, genesta (French broom) from southern Europe, and cape ivy from South Africa have taken over large areas of the Big Sur region. In addition, a cross breed of ferral and wild pig has become very prolific in many areas of Big

Sur. These pigs plough up native plants which destroys habitat for native animals and opens the way for many non native plants to colonize the disturbed ground. On their own, each of these species has inflicted major adverse changes to the Big Sur landscape. Their combined assault has resulted in the displacement of entire native communities.

Mr. Speaker, the federal government has invested millions of dollars in acquiring land for conservation in the Big Sur region. A program of this type would help prevent the ecological value of that investment from being destroyed. This region needs a program to target the eradication of invasive plant and animal species in the Monterey District of the Los Padres National Forest. In addition nearly private or other non USFS property where the property owner seeks the assistance and where the invasive species are present on that property pose a threat to national forest lands and should be included as well.

Mr. Speaker, I want to see the transfer USFS land currently occupied by Pacific Valley School under special use permit to the Pacific Valley School District. The amount of land to be transferred should not exceed the school's existing footprint (approximately 5 acres). Also, the transfer should include reversionary language that would require transfer back to the Forest Service if the School District ever gave up use of the land. The Pacific Valley School serves the residents of the rural southern Big Sur Coast. It has approximately 40 students in grades K–8. The school has occupied a site on USFS property under a special use permit for approximately 35 years. The school itself consists of 6 portable buildings arranged on a series of concrete and asphalt pads. Over the years the school has had a good relationship with the Forest Service. The major problem is the inflexibility that the special use permit arrangement imposes on the school's site management. Generally, any changes the school wants to make to the site have to be cleared by the Forest Service. Even if a change, for example the addition of a student garden or replacing a set of building steps, may not need Forest Service approval, the uncertainty of whether it does have a chilling effect on any activity. This transfer is intended to resolve the potential conflict and release the USFS from acting as a school site manager.

Finally, Mr. Speaker, I feel we should authorize the construction and maintenance of a new water line and corresponding spring box improvements adjacent to an existing domestic water service in the Silver Peak Wilderness Area in the Los Padres National Forest. The water system in question serves two adjacent properties located just outside the existing Silver Peak Wilderness Area boundary established in 1992. Both parcels are 10 acres and are located in the west ¼ of the south ¼ of the southwest ¼ of the southeast ¼ of section 14 in township 24 south, range 5 east, MDB&M. Both parcels have drawn water from the same spring for over 40 years. A single pipeline runs from the spring box located in the wilderness and delivers water to the two parcels in succession. The 1992 act creating the Silver Peak Wilderness Area grand-fathered this system into the wilderness. However, Monterey County ordinances now implementing state and federal law treat the system as a water distribution system which requires it to comply with the treatment and storage needs of a larger system serving multi-households. The owners of the two parcels want to lay a new separate pipeline alongside the existing line so that they become two separate individual systems and thus free of the cost of complying with the multiple hook-up requirements.

Mr. Speaker, I once again want to thank all those that made passage of this legislation possible. Protection of these resources is of great benefit to all.

HONORING BENEDICT KUPCHO ON THE OCCASION OF HIS RETIREMENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. DELAURO. Mr. Speaker, I am honored to rise today to join Coginchaug Regional High School and the community of Durham, Connecticut in paying tribute to Benedict Kupcho as he celebrates his retirement after thirty-seven years of service. An educator, colleague, and friend, Mr. Kupcho has been an invaluable resource to the students and faculty of Coginchaug Regional High School and the residents of Durham throughout his career.

I have often spoke of our nation's need for talented, creative educators ready to help our students learn and grow. Mr. Kupcho is just that kind of teacher. His commitment and dedication has touched the lives of thousands of our young people. Mr. Kupcho has enriched his students lives ensured that they have a strong foundation on which to build their futures—making a real difference in all of their lives. Coginchaug Regional High School has been fortunate to have benefitted from his many years of service.

I have had the pleasure of meeting Mr. Kupcho on several occasions throughout my career in the House of Representatives and I am always in awe of his seemingly unending enthusiasm and excitement. For twenty-two years, Mr. Kupcho has organized Coginchaug's annual trip to Washington, D.C.—bringing over two thousand students to our nation's capital throughout five separate administrations. Through wind, rain, sleet and snow, he has worked tirelessly to ensure that his students were given the opportunity to visit Washington and experience how our government works. I have always held a firm belief in the importance of engaging our young people in the democratic process and in assuring that they have a voice here in Washington. Mr. Kupcho's dedication is a reflection of this ideal and our community owes him a great debt of gratitude for all that he has done on behalf of our young people.

As a track coach and student advisor, Mr. Kupcho has also acted as a mentor to many students—truly helping to shape their lives outside of the classroom as well. In addition to his many professional contributions at Coginchaug Regional High School, Mr. Kupcho has also been active in the Durham community. One of the most popular and longest running events in Connecticut, the Durham Fair has long been the beneficiary of Mr. Kupcho's time and energy. Attracting thousands of people from across the state, the Durham Fair is a major event for the small community of Durham. The name Benedict Kupcho is almost synonymous with the parking organization for the Fair and it has been his efforts that have enabled its many attendees to enjoy this wonderful annual event.

It is with great pleasure and my very best wishes for continued health and happiness that I stand today and extend my sincere thanks and appreciation to Benedict Kupcho for all of his good work throughout his thirty-seven years with Coginchaug Regional High School. Though he will certainly be missed, he has left an indelible mark on the Durham community and a legacy that will inspire others for many years to come.

IN HONOR OF RABBI STUART WEINBLATT

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. ENGEL. Mr. Speaker, I rise today to honor Rabbi Stuart Weinblatt on his 50th birthday and in recognition of the tremendous work he has done on behalf of others. Rabbi Weinblatt and his wife Symcha are the parents of four wonderful children, Ezra, Margalit, Micha, and Noam. He is the founding Rabbi of Congregation B'nai Tzedek, a Conservative synagogue in Potomac, Maryland, to which I belong, serving more than 620 families. Prior to forming Congregation B'nai Tzedek in 1988, Rabbi Weinblatt was the Rabbi of Temple Solel in Bowie, Maryland, for seven years and Temple Beth Am in Miami, Florida, from 1979–1981.

Rabbi Weinblatt is active in a number of local and national organizations, including the National Rabbinic Cabinet of the UHC, Hillel at the University of Maryland, the Jewish National Fund, Israel Bonds, the Jewish Community Council, where he chaired a committee on Jewish Life and Culture, and the Federation of Greater Washington, where he chaired the Super Sunday effort several years ago. Rabbi Weinblatt has also served as President of the Washington Board of Rabbis. He has been an adjunct professor of Jewish History and Theology at Wesley Theological Seminary since 1992. His dynamic leadership, innovative approach to Judaism and reputation as an outstanding teacher and speaker has earned him many honors, including selection as a Bronfman Fellow by CLAL and as a fellow in the Shalom Hartman Institute Center for Rabbinic Enrichment program. In recognition of his outstanding leadership and community involvement, he was chosen in 2001 as the Washington area ORT ''Man of the Year.'' He is a strong and vocal supporter of the State of Israel.

I met Stuart Weinblatt when I was first running for Congress, 14 years ago, when we were seated at the same table, by chance, at a dinner. I had no idea that years later I would become a member of a new synagogue that was opening with him at the helm. I have followed this man all these years, and have watched him and the synagogue grow in stature. His sermons are always remarkable and inspiring.

Mr. Speaker, Rabbi Weinblatt's years of service to his community and the nation have

enriched the lives of so many others and he is a stellar example of the type of individuals we need leading our communities. I am proud to be a congregant of Rabbi Weinblatt's Synagogue. I wish Rabbi Weinblatt a very happy 50th birthday and I look forward to his continued service as a leader in our community. I am proud to call him my Rabbi, and even more proud to call him my friend.

HONORING THE MEMORY AND COURAGE OF JOURNALISTS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to honor the memory and the courage of journalists who have given their lives in the pursuit of truth.

I rise to commend organizations like the National Ukrainian Journalists Union, a group dedicated to the protection of Ukrainian journalists, the abolition of censorship and the defense of free speech.

In many developing countries, harassment, in the form of threats, arrest, and even kidnapping and murder is used as a tool to silence journalists who dare to report the truth. No single attempt at censorship has sparked more protest than the disappearance and murder of Greorgiy Honhadze in Ukraine in 2000. This crime cast international attention on the systemic oppression of freedom of expression, and cast significant doubts on the level of democratic development in Ukraine.

The death of Honhadze, the beating death of Ihor Aleksandrov, the director of a television station in the Donetsk region of eastern Ukraine in July 2001, and most recently, the death of Mykhailo Kolomiyets, the director of a news agency in Kyiv, Ukrainian News, reinforce doubt about the state of freedom in Ukraine. The lethargic pursuit of the investigations of these deaths by authorities indicates official apathy if not tacit approval.

Mr. Speaker, continued government control of the media, and often violent oppression of freedom of expression denies the Ukranian people their inalienable human rights and prevents democracy from rooting and growing in Ukraine. Therefore, I call upon my Colleagues in the Congress to urge the government of Ukraine to resolve the deaths of these journalists expeditiously, to implement an agenda for the defense of free speech, and to recognize the fourth day of December as ''a day of sorrow for lost journalists.''

RECOGNIZING CONGRESSMAN BOB BORSKI

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. MURTHA. Mr. Speaker, I would like to take this opportunity to recognize a good friend and colleague, BOB BORSKI, upon the occasion of his retirement from twenty years of distinguished service in the House of Representatives.

Congressman BOB BORSKI (D-PA) was first elected to the U.S. House of Representatives in November 1982. He is currently serving his tenth term as the Representative from Pennsylvania's Third Congressional District, which encompasses Northeast Philadelphia, the River Wards, Society Hill and portions of Queen Village. Of the three districts that include parts of Philadelphia, the 3rd is the only district completely within city limits.

As a teenager in Northeast Philadelphia, BOB was a standout athlete for the Frankford High Pioneers, captaining the basketball and baseball teams. He is a low-profile leader in Congress, but he still gives his all for the community where he grew up, devoting most of his energies to the needs and concerns of the 3rd District.

Since he was elected, BOB BORSKI has fought vigorously to preserve military facilities and defense jobs in his congressional district and throughout the Philadelphia region. In 1993 and 1995, he worked with the city of Philadelphia and community leaders to defeat attempts to close the Aviation Supply Office (ASO) and its tenant activities in Northeast Philadelphia.

In the past couple of years, BOB has initiated an effort to reclaim and revitalize the neglected waterfront of the Delaware River. We worked together in a coordinated effort with various regional, federal, state and local stakeholders in order to develop Philadelphia's waterfront for the benefit of both the city and the people. He envisioned an exciting, prosperous, new waterfront for Philadelphia that will reconnect neighborhoods with land developed for many uses. Interconnected recreational pathways as well as plenty of open green space bordering the river are principal parts of his vision.

Representative BORSKI retires as the third ranking Democrat on the Transportation and Infrastructure Committee and as the lead Democrat on the Committee's Highways and Transit Subcommittee.

In addition to his leadership position on the Transportation and Infrastructure Committee, BOB served as Regional White for Philadelphia and Ohio. As a senior member on the Transportation and Infrastructure Committee and Subcommittee Ranking Member, BOB has been a vocal advocate of an improved national transportation system and a strong federal commitment to public infrastructure and mass transit programs. In Philadelphia, his legislative efforts have resulted in millions of dollars more for SEPTA, I–95, neighborhood roads, and transportation improvements which will greatly benefit the Port of Philadelphia, and as a result, the surrounding area.

In the 105th Congress, BOB worked to pass TEA–21, authorizing spending for highway, mass transit and other transportation-related projects across the nation. This bill included $221 million in projects for the City of Philadelphia and led to the expansion of Philadelphia International Airport, I–95 improvements, investment in mass transit, and the construction of the Frankford Transportation Center, a state of the art multimodal terminal complex. With TEA–21, Congressman BORSKI led the effort to bring construction and manufacturing jobs to the City of Philadelphia with projects that also assisted in the reduction of traffic congestion and air pollution.

He has worked consistently to defend public safety, authoring legislation which bans the expanded use of triple trailer trucks as well as legislation which prohibited the dangerous practice of backhauling—transporting foods one way and toxic chemicals on the return trip.

In previous years, BORSKI served as the top Democrat on the Water Resources and Environment Subcommittee, a job that at times pulled him well beyond his customary focus on Philadelphia into issues such as government response to natural disasters and desalination efforts in communities short of fresh water. BOB was instrumental insuring the passage of the landmark Clean Water Act and Safe Drinking Water Act.

BOB BORSKI has been a strong supporter of the environment. As the subcommittee began debate in the 105h Congress on legislation to overhaul the Superfund hazardous waste cleanup program, BORSKI refused to support legislation that would go easy on polluters or that failed to ensure the protection of human health and the environment. He has pushed for legislation to promote cleanup of ''brownfields''—urban industrial sites where pollution discourages redevelopment.

BOB is also a member of the Subcommittee on Railroads, the Subcommittee on Water Resources and Environment, the Congressional Delegation to the NATO Assembly, and the ad-hoc committee on Irish Affairs.

In addition to his committee assignments, he represented the concerns and needs of his large senor citizen constituency and serves on the Older Americans Caucus, the Diabetes Caucus, and the Prescription Drug Task Force.

Prior to his 1982 election to the U.S. Congress BOB BORSKI served three terms in the Pennsylvania State House. Before that, he was a floor manager at the Philadelphia Stock Exchange. He was born in Philadelphia on October 20, 1948 and is a life-long resident of the city. In 1966, he graduated from Frankford High School where he captained the basketball and baseball teams. He attended the University of Baltimore on an athletic scholarship and, after graduating with a B.A. in 171, served one year as the assistant basketball coach. Congress BORSKI lives in Northeast Philadelphia with is wife Karen and is the father of four girls and one boy.

I am grateful for the many years I've gotten to serve with BOB in the Pennsylvania delegation. His friendship, unfailing congeniality and hard work made it a joy to work with him, contributed immeasurably to the cohesiveness of the delegation and benefited Pennsylvania greatly. He will be remembered as a gentleman and statesman who left a positive mark on this body.

RECOGNIZING THE LIFE OF CORNELIUS MYRICKS

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to pay tribute to the life of Cornelius Myricks born April 25, 1926 in Montgomery, Alabama. During his younger years, Mr. Myricks served in the United States Navy for four years. After being honorably discharged from the Navy, he moved to Chicago, Illinois. It was then he became a member of Metropolitan Missionary Baptist Church and ordained as a Deacon in 1950. He served as

the President of the Senior and Junior Usher Boards for many years and later as the Captain of the Usher Board and the Willing Workers Club Number Two. Mr. Myricks was an active member of the Metropolitan Baptist Church participating in duties as an usher. His favorite scripture was John 9:4, ''I must work the works of him that sent me, while it is day, the night cometh, when no man can work.''

Mr. Myricks departed this life on Saturday, November 16, 2002 at 9:32 a.m., at the VA Westside Hospital in Chicago, Illinois. He is missed by his devoted wife, Thelma; one brother, Willie (Mattye) Myricks; sister-in-law, Geraleme Myricks, McGrye Wright, Lucille Payne and Pearly Payne; brother-in-law, George Payne; two play sisters, Lonzie Johnson and Ernestine Lenard; nieces; nephews.

Mr. Speaker, I extend my condolences to the family. May God Bless his family.

HONORING THE 3RD U.S. INFANTRY REGIMENT, ''THE OLD GUARD''

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. NUSSLE. Mr. Speaker, I rise today to honor the perseverance, dedication, and hard work of the members of America's oldest and one of the most prestigious units of our Armed Services, the 3rd U.S. Infantry Regiment, ''The Old Guard.''

As a nation, we have held many ceremonies honoring those individuals and groups who responded to the tragic events of September 11, 2001, and, without regard for their personal safety or emotional well-being, went about the sometimes gruesome task of looking for survivors in an area so devastated, few of us can even imagine the horror faced on that day. Men and women who eventually were searching for something, anything, that could help identify a victim and bring some measure of peace to anxious family members and friends. Unfortunately, as with any disaster of this magnitude, some people who assisted in the search for survivors and helped in the recovery efforts have not been identified and therefore have not been recognized for their invaluable service during the days, weeks, and months following the attacks.

Traditionally, The Old Guard has served to conduct ceremonies, memorial affairs, and special events to demonstrate the excellence of the United States Army to the world. Their missions normally include conducting military ceremonies at the White House, Pentagon, and other national memorials as well as to provide funeral escorts at Arlington National Cemetery and maintain the 24-hour vigil at the Tomb of the Unknown Soldier. However, their normal mission changed on September 11, 2001.

The Old Guard was immediately pressed into service for rescue and recovery for the disaster site at the Pentagon. Like all branches and units of our armed services, The Old Guard met the challenge in response to the terrorist attack. And like our nation, the resolve of The Old Guard was not shaken, no matter the mission.

I rise today to honor the sacrifices of all our men and women in uniform involved in the war on terrorism, in particular the unique services provided by members of The U.S. Infantry's Old Guard at the Pentagon. Let us never forget the service that our military has provided over the past 225 years and the sacrifices they made to protect and preserve our freedom.

IN TRIBUTE OF STAFF SGT. RYAN FORAKER

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to pay tribute to Staff Sgt. Ryan Dane Foraker. Staff Sgt. Foraker, a U.S. Army reservist with the 342nd military police Company based in Columbus, Ohio, has been reported missing at the U.S. Naval Base Guantanamo Bay, Cuba since Tuesday, September 24, 2002.

Sgt. Foraker's wallet, military ID and civilian shorts and T-shirt were found folded and stuck in a rock crevasse outside Camp America barracks.

An extensive search and rescue effort including watercraft and search and rescue helicopters for the missing soldier was called off as of 2 p.m. (EST) October 4, 2002. Staff Sgt. Foraker's official duty status is, ''whereabouts unknown.''

Described as a ''model soldier,'' Foraker was in his seventh month of reserve duty as a supervisor of MP's guarding al-Qaeda and Taliban prisoners, first at Camp X-Ray and later at compound Delta as part of Operation Enduring Freedom. Detainee involvement was not suspected in his disappearance.

Staff Sgt. Foraker leaves behind a wife and two daughters, ages 3 years and 14 months.

Mr. Speaker, I urge our colleagues to join me in expressing sincere sorrow, sympathy, and gratitude for Staff Sgt. Foraker and his family. Staff Sgt. Foraker's disappearance while defending America is a somber reminder of the dangers facing those safeguarding our Nation's freedoms. May God rest his soul.

IN HONOR OF JOSEPH BERMUDEZ

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. ENGEL. Mr. Speaker, I rise today to honor Joseph Bermudez who has dedicated his life to his adopted country. Joseph came to the United States as a boy of just 6 years of age. Throughout his life he has given so much to his country, his community, and his family.

Joseph joined the Navy and served during the Vietnam era;. He remained in the Naval Air Reserve for 23 years, retiring at the rank of Lieutenant Commander.

Shortly after his discharge from the Navy, Joseph joined the Bronx Bureau of Child Welfare serving as a caseworker, child protective investigator and training specialist for the Manhattan office.

Joseph's professional career in the New York City Schools began as a bilingual social worker and social work coordinator for Community School District 1 and District 4 in Manhattan. Later he worked for School District 11 in the Bronx, as a bilingual social worker at Junior High School 112 and at Truman High School as a counselor. He also worked as an in-house social worker for the Committee on Special Education. The past 12 years he has served as an Education Administrator for The Committee on Pre-School Special Education. Finally, he has also served on the District Universal Advisory Board.

During this distinguished tenure, Joseph took time away from the New York Schools to serve a 3-year assignment with the U.S. Public Health Service as a Health Service Officer. During his tour of duty, the United States faced two major public health crises, the Cuban Boat Crisis and the Three Mile Island nuclear accident.

Joseph is a graduate of Long Island University and Fordham University, where he received a Master's degree in Social Work. He still lives in New York with his wife of 34 years and is the proud father of two daughters, Christina and Yvonne.

Mr. Speaker, New York and the United States have been blessed by the efforts of Joseph Bermudez. He is a shining example for all of us to look to.

TRIBUTE TO TOM LEVY

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mrs. BONO. Mr. Speaker, I rise today to recognize the outstanding achievements of Tom Levy, who is retiring as the General Manager and Chief Engineer of the Coachella Valley Water District (CVWD).

Mr. Levy has served the public for thirty years at CVWD, and has served as General Manager for sixteen years. Under his tenure as General Manager, the District's domestic water service more than doubled, from less than 42,000 meters in 1986 to more than 86,000 today. He was instrumental in numerous water conservation projects, including the Whitewater River Spreading Area facilities and the development of an Urban Water Management Plan. He also worked feverishly for the last six years to bring about an agreement on the apportionment of Colorado River water for Southern California that would be satisfactory to CVWD, Imperial Irrigation District, Metropolitan Water District of Southern California, the State Department of Water Resources and the Department of the Interior.

He was appointed to California's Advisory Drought Planning Panel by Governor Gray Davis, and has also served two terms as Chairman of the State Water Contractors, which oversees the State Water Project.

For his leadership in California water issues, he was honored as a recipient of an Excellence in Water Leadership Award in 2000.

Even in retirement, Mr. Levy hopes to stay active in the water field, and will continue to provide whatever support the Coachella Valley Water District may need. It is my honor to acknowledge a man who deserves the recognition of our Nation and this Congress.

HONORING MR. ROBERT WAGNER

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to honor Mr. Robert Wagner, a resident of California's 27th Congressional District. Mr. Wagner has recently been honored by his alma mater, Georgetown University, with the renaming of the University's Alumni House, the Robert M. Wagner Alumni House.

Robert Wagner was born in Perth Amboy, N.J. but raised in both Iowa and California during the Great Depression. In 1940, at age 16, Mr. Wagner was called to serve in World War II and during boot camp found enough time to earn his GED. Upon completion of his service, he was accepted as a student at Georgetown University on the GI Bill.

It was at Georgetown, Mr. Wagner says, that he learned the skills that have made him a success. His professors, course work and classmates, all played a role in both his professional success in the years after his graduation, and his dedication to the school which helped him to achieve some of his life's greatest successes.

His dedication to Georgetown is legendary. Over the past 33 years, he was volunteered to interview Georgetown applicants, founded the Georgetown University Alumni Association of Southern California, and has endowed five scholarships to benefit financially needy students. In addition to scholarships, Mr. Wagner has made unrestricted gifts to the Georgetown Annual Fund and endowed the Carroll Quigley Lecture Series, which brings experts in international affairs to the University.

Most recently, Mr. Wagner endowed both a charitable remainder unitrust and a charitable lead trust. Both trusts will support the reconstruction, renovation and maintenance of the newly designated Robert M. Wagner Alumni House.

Such dedication to the educational institution which served him so well is admirable and it is with great pleasure that I ask all Members to join me in congratulating Mr. Robert Wagner upon his being bestowed this great honor by Georgetown University.

TRIBUTE TO JACK STEWART

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. FARR of California. Mr. Speaker, I rise today to honor the career of a true public servant, a man who has touched literally thousands of lives. Jack Stewart, who is currently the Monterey County Military and Veterans Affairs Officer and a long-time constituent of mine, will be retiring from the post he created in 1983 after a career that has been marked by excellence and dedication.

Jack first served in the U.S. Army in 1954, eventually serving 20 years and receiving several decorations and awards including he Combat Infantryman Badge, Bronze Star, Purple Heart, Meritorious Service Medal, Army Commendation Medal, Vietnam Service Medal, and Good Conduct Medal. Mr. Speaker, these commendations obviously show the level of commitment he had to defending and protecting the democratic ideals our country cherishes, but it is only the beginning of what would become a career dedicated to those who, like himself, served their country with honor.

As a county supervisor, I got to know Jack and understand the workings of his office, which helped us both when I became a California State Assemblyman. When the California Association of County Veterans Service Officers (which Jack served three terms as president) came to Sacramento I was always there for Jack, as he was for me. Jack was always a welcome sight in my office, and I know other counties were envious of the relationship and understanding that we had.

One of the highlights of my work with Jack during those years was helping him bring a replica of the Vietnam Veterans Memorial wall to Monterey County, a deeply moving experience. This project was one of the best instances of veterans coming together with the community, including anti-war leaders, in an outpouring of love and respect for those who didn't come home. This was the first listing of all Monterey County MIA's and those killed in action, which led to the creation of a separate Vietnam Veterans Memorial in Salinas. It also provided for listing those names on the state memorial in Capitol Park in Sacramento, including my cousin John Geisen and Carmel High School classmate Andrew Elliot, who is MIA. For Jack's work on these projects, I am personally grateful.

Mr. Speaker, many people will undoubtedly sing Jack Stewart's many praises as his retirement nears, but I must mention a few things that he has done while I have been a member of the U.S. House of Representatives. Perhaps the single most influential role he had was during the closure of Fort Ord in Monterey County, the largest base closure in US history. The economic and social implications on the local communities were astounding, but Jack made sure that the interests of the veterans in the area were attended to. He had the world pulled out from him, as we lost a four hundred-bed hospital that served both active duty members and retirees; the CHAMPUS provider was to be switched so no one knew who to go to for health care; disabled vets wee stranded without transportation; and all military personnel who could help handle such a crisis were gone. The only person left was Jack, who, with his staff had to do the work of an entire division.

Out of this chaos, he will be leaving behind a new clinic run by the Department of Veterans Affairs, serving a broader community than ever; a new Post Traumatic Stress Disorder Counseling Program; a Veterans Transition Center for homeless veterans and a transportation network that provides van rides to disabled veterans. Jack was also able to get the federal government to put up land and money to open a state-run veterans' cemetery at Fort Ord, and has been instrumental in starting and running the local process for making this a reality. Of course, this is a project that will continue without Jack, but he should be honored for his role in moving this from an idea to where it is today.

Mr. Speaker, I would like to close today by saying that Jack Stewart has handled more challenges than any county veterans officer I know of, and produced a more lasting legacy of services than anyone. This alone speaks volumes, but I hope I have been able to show how much he will be missed, not only by me, but also by the community at large. I wish Jack and his family all of the best in retirement, even though I know that he will remain an active part of the veteran's community.

THANKING MY CONGRESSIONAL STAFF

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. GEKAS. Mr. Speaker, on November 19, 2002, I submitted remarks thanking my congressional staff. Inadvertently, several lines from those remarks were not included in that CONGRESSIONAL RECORD. I here resubmit those missing lines which thanked Phil Jodz and Mike Rule on my staff for their contributions to my incumbency.

The end of a congressional career brings about many emotions. Over the last 20 years I have happily spent representing the fine people of the 17th Congressional District of Pennsylvania I have had the pleasure of working with thousands of constituents, local, state and federal officials, and many former and current distinguished members of the U.S. House of Representatives and the U.S. Senate. To all of them I say, thanks for working with me towards a better America.

And, of course, every Member of Congress works with many, many competent staff, from the staff in their own personal offices to the committee and subcommittee staff and the leadership and floor staff. It has often been said that without staff where would this institution be? And I concur with that statement, for without the many fine staff with whom I have had the good fortune to work, I and other Members of Congress of the United States would be far worse off.

Phil Jodz, is the many talented staff assistant who handled constituent tours and interns, and also ably handled press, legislative research, the office website, and all manner of writing in my office. Mike Rule, our newest staff assistant, showed a willingness, and more importantly a capability, to do whatever was needed to assist the office.

To both I say please accept my sincere thanks for making my tenure in the U.S. House of Representatives a productive and pleasant one. Any current Member of Congress or committee would be well served by the high-quality staff with whom it has been my pleasure to work over these many years.

CONCERNS WITH THE PAKISTANI PARLIAMENT'S RELIGIOUS BLOC

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. PALLONE. Mr. Speaker, I would like to take this opportunity to express my concerns regarding the Pakistani Parliament and in particular, the efforts of the Islamic alliance to form a governing coalition in Parliament with either the King's Party, led by President

Musharraf, or the People's Party, led by Benazir Bhutto.

Mr. Speaker, during Parliamentary elections held in Pakistan last month, members of the Pakistani religious bloc known as the Islamic allies unexpectedly won 60 out of 342 seats. Not only was this surprising, but furthermore, the outcome of the elections was divided in such a way that no party won the number of seats necessary to form a government.

As a result, the Islamic allies have been negotiating separately with the pro-Musharraf party and the Bhutto party in an effort to form a coalition and thereby create a majority. Their intent is to demand a reversal of constitutional amendments introduced by Musharraf earlier this year, and most importantly, to overturn the amendment that allows Musharraf to dismiss Parliament.

However, what concerns me greatly is that the members of this Islamic alliance, or this Pakistani religious bloc, won their seats based almost exclusively on an anti-American platform. In fact, this party's primary campaign message criticized Musharraf's support for the war on terror and denounced Musharraf's cooperation with the United States. In addition, a component of this party's message demanded that the U.S. military leave Pakistan and Afghanistan immediately. Lastly, the Islamic allies have encouraged Pakistanis to offer sanctuary to both the Taliban and Al-Qaeda and to embrace the work of Osama bin Laden.

Mr. Speaker, I believe that for these reasons, it is imperative that Pakistan's religious bloc remain unsuccessful in forming a coalition with Musharraf's party or Bhutto's party. If in fact this party gained a majority and was able to implement its anti-US policies, the consequences would be devastating.

At this stage, it does not seem as if the religious bloc will be able to achieve forming a government. However, Mr. Speaker, it is in the best interest of the U.S. to monitor this situation closely.

CONFERENCE REPORT FOR H.R. 4546, THE BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. JONES of North Carolina. Mr. Speaker, last week, the House of Representatives took up and passed the conference report to H.R. 4546, the Fiscal Year 2003 National Defense Authorization Act. As one of the conferees to that measure, I was proud to support the overall bill and was pleased to see its passage. The Bob Stump National Defense Act was a fitting tribute to a man whose congressional career was spent working for our Nation's men and women in uniform.

This year's Defense Authorization Act has three main principles: protecting and defending America's homeland, supporting U.S. service members and their families, and better equipping troops with training, equipment and weapons to fight and win the war against terrorism. It marks the largest increase in defense spending in over 20 years, providing billions of additional dollars for procurement, research, and development for the next generation of weapons. The measure continues our commitment to improving the pay of military personnel by providing a 4.1 percent pay increase and continued the administration's plans to eliminate out-of-pocket housing costs for military families. H.R. 4546 devotes considerable resources toward protecting our homeland from the threat of terrorist attacks and from the growing proliferation of ballistic missiles. I stand behind this bill because I believe it provides our military with the foundation it needs and deserves. We are living in a time of war and must act accordingly.

Despite the important advances this bill makes for our national defense, I retain two reservations about the final product.

One significant issue which has not been addressed is legislation I sponsored to redesignate the position of the Secretary of the Navy as the Secretary of the Navy and Marine Corps. For over 200 years the Navy and Marine Corps have shared a secretary in being, but not in name. Notwithstanding their jointness, the Navy and Marine Corps are distinct with their own history, honors, and tradition. Rather than detracting from those traditions, this legislation seeks to recognize the separate, but equal traditions that the Navy and the Marine Corps team share. It acknowledges that there are two members of the same team and seeks to reinforce to the American people that the Secretary is a proud supporter of both. The legislation was adopted unanimously in the House Armed Services Committee, over half of whose membership had cosponsored the legislation. It was supported by three former Secretaries of the Navy, the current and two former Commandants of the Marine Corps, a former Secretary of the Veterans Administration, and many other former senior leaders of the Navy and Marine Corps. The Fleet Reserve Association and the Marine Corps League, each boasting thousands of members, also strongly urged passage of the legislation. Yet because of the concerns of a few, it was not included in the final conference report.

However I do not view this as a setback, but instead an opportunity. I remain committed to introducing the measure again early in the 108th Congress. As Commandant Jim Jones stated, this is an idea whose time has come. I will be working diligently with my Navy and Marine Corps friends to broaden the support and communicate the importance of this measure. By passing this legislation, the teamwork that has been present for over 200 years will finally be recognized in the title of the person who coaches the team.

A second shortcoming of the otherwise outstanding measure is the compromise on concurrent receipt. Although the language in the conference report regarding concurrent receipt is a very important step forward, I strongly believe that more should be done. As I stated in a letter to President Bush, if a man or woman served in uniform and retired honorably, they deserve to receive the retirement pay they were promised. If in the course of that service, that military member was injured and sustained a lasting disability, they should be compensated for that as well. One was earned for service and one was earned for sacrifice. It is for that reason that I have been a strong supporter of legislation to eliminate this offset since coming to Congress.

It is true that correcting this unfair penalty is expensive, however I also believe that our military retirees are priorities for which we must be willing to support. Congressman BILIRAKIS, numerous military and veteran organizations such as the Fleet Reserve Association, and countless veterans have waged a tireless effort to see legislation ending the prohibition against concurrent receipt enacted. They should be commended for the great work that has been accomplished to date and encouraged to continue this fight in the future. I look forward to working with them on future efforts to meet the principles behind H.R. 303. Our military retirees did not fail us when they were called. We should not fail them.

GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISION

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. SANDLIN. Mr. Speaker, in the waning moments of this Congress, the House of Representatives almost adopted a bill that would have devastating consequences to teachers and public employees across the State of Texas and the country. Instead of helping teachers and government employees secure a better retirement, H.R. 4070, Social Security Program Protection Act of 2002, as amended, would have left hard working teachers worse off rather than better off. In these uncertain economic times, this Congress should be adopting legislation to make sure everyone has access to the retirement benefits they have earned over a lifetime of work and service.

Two little known amendments to the Social Security Act are dramatically and unfairly slashing the retirement benefits of hundreds of thousands of Americans—teachers and other public school employees, firefighters, police, social workers, and other civil servants—who are being penalized for their public service. These provisions are just plain unfair, and I am committed to working to end the injustices of these two provisions.

The Government Pension Offset, GPO, requires that an individual who receives a pension from work that was not covered by Social Security has his or her Social Security spousal benefit substantially reduced. The law allowed an exemption from the GPO if he or she worked in a job that was covered by Social Security on his or her last day of employment. Under the Senate-passed version of H.R. 4070, an individual would be required to work in a Social Security-covered job for the last 5 years of employment to be exempt from the GPO. The amendment is being characterized as closing a loophole. This is not a loophole but rather a mechanism for individuals to obtain the benefits for which they have paid. It is an unnecessary and unjust hurdle. Instead of raising the bar to achieve these earned benefits, Congress should be eliminating the barriers completely.

In addition to the GPO, teachers and certain other workers are subject to the Windfall Elimination Provision (WEP). This provision unfairly harms public servants by reducing—sometimes by as much as 55.6 percent—the Social Security benefits of federal, state, and local employees who retire from government jobs that are not covered by Social Security.

For teachers, the cost is significant. The Government Pension Offset and Windfall Elimination Provision affect at least one-third of America's education workforce, concentrated in 15 states, including my home state of Texas. But, because people move from state to state, there are affected individuals everywhere. I know from personal experience the penalty hard working teachers pay. My own mother, who spent nearly 30 years serving as a teacher in the public schools, has been adversely affected. We need to attract more people to teaching and public service. Adding onerous and additional unfair requirements to obtaining their retirement benefits will not solve the crisis we are having in attracting and retaining teacher professionals.

Since my election to Congress, I have worked to eliminate these two provisions. On March 1, 2001, I introduced H.R. 848, the Social Security Benefit Restoration Act. This bill will bring equity to retirement benefits. It will eliminate the public sector penalty and will allow civil servants to draw full Social Security benefits. I am also a cosponsor of H.R. 2638, the Social Security Fairness Act. This bill eliminates the Windfall Elimination Provision as well as the Government Pension Offset. Finally, I, along with an overwhelming majority of Members, have cosponsored H.R. 664, which also eliminates the Government Pension Offset.

My bill and the other legislation to eliminate these unjust provisions have been languishing in the House Ways and Means Committee. These bills are but another example of the long list of things the Republican leadership of the Congress has failed to address. To pass a bill that would make retirement less accessible for those who teach our children is unconscionable. We need to be doing more to strengthen the teaching profession and not adopt laws that make teaching less attractive to current and prospective teachers.

When the 108th Congress convenes next year, I will reintroduce my bill and work with my colleagues to eliminate these unfair provisions. Thousands of Texans who have devoted their lives to teaching and public service are entitled to the benefits they have spent a career earning. Basic fairness demands that Congress repeal these provisions and allow teachers and other public servants to collect all of their retirement benefits.

ON THE HISTORIC OCCASION OF THE UNITED STATES CONGRESS JOINT MEETING IN NEW YORK TO COMMEMORATE THE TRAGEDY OF SEPTEMBER 11TH

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. MILLENDER-McDONALD. Mr. Speaker, it is an honor for me as the Member of the United States Congress to convene here in New York today, September 9, 2002, on this historic occasion. It has been one year since the tragic terrorist attacks of September 11. It has been over two hundred years since Congress convened here in New York at Federal Hall to elect the first President of the United States and to ratify the Bill of Rights.

We applaud the people of this great city and state for their resolve in light of the devastation thrust upon them. It is a credit to their perseverance and their total commitment to freedom that the 107th Congress stands proud today. We reflect with remorse on the past year, but also look forward with hope and optimism as we proceed in the healing of our Nation. On this historic day, the congress has convened to mourn the loss of families and friends during the September 11 attacks, and to salute the heroism of our police officers, fire fighters, and emergency responders who performed with unbridled bravery and gave so selflessly on that tragic day.

As I reflect on the tragic events of a year ago, I am reminded of the heavy hearts of so many great Americans who have grappled with this cowardly act and for those who had loved ones who perished in New York, Pennsylvania and the Pentagon. For those who lost friends and coworkers and who must now try to go on with their lives, our prayers are offered to these families and their friends and to all America and other Countries who lost loved ones.

Today, we are expressing our gratitude to the fire fighters, police officers, healthcare workers and those individuals who, on that fateful day, performed heroic deeds and helped their fellow citizens and neighbors without regard for their own welfare.

During the recent year, my colleagues and I in Congress have actively engaged in debate about how to develop an agenda that addresses the new world in which we now live.

Though our country and the world have been shaken, we continue to build bridges toward progress and strengthen the bond of patriotism and the spirit of hope. I cannot express how important it is to map out a course for our future that will sustain, inspire and protect our children. We must provide our children with a sense of optimism and hope.

Our domestic efforts and grief over the tragic events of September 11 have heightened our appreciation for the pain of others around the world who have been subjected to the brutality and inhumanness of terrorism. That is why we have supported liberation and democratization efforts in Afghanistan and seek to assist in the rehabilitation of those persecuted and who are attempting to rebuild their lives and their country. We must complete our mission there.

As we return to Washington, our nation and its Congress will never forget the victims of September 11. On this occasion of reflection, recommitment and rededication to freedom and democracy, we are affirming our commitment to remember and honor the men and women who paid the ultimate price—their lives. They will always be a part of our history and our hearts. Our nation shall continue to rise to meet the challenge of terrorism and the threats posed by terrorists who seek to derail freedom and a Nation of peace.

H. RES. 598

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. SOLIS. Mr. Speaker, it is with a heavy heart and great sadness that I rise to honor my friend Senator Paul Wellstone, who died October 25 in a plane crash in Minnesota along with his wife and daughter, three of his staff members and two pilots. The mark that Paul Wellstone left on the world was far, far greater than his small stature and down-to-earth nature would suggest. And so, the emptiness we feel at his passing is vast and deep. It stretches far beyond the personal pain of losing a friend, or the tragedy of his shattered family.

Senator Wellstone was a public servant in the most ideal sense of the term. Politics never became more important to him than the people he represented and the people he loved. Victory never became more important to him than voicing his true convictions. Power never became more important to him than his desire to serve the powerless.

On the campaign trail, Paul Wellstone drove an old green school bus across the state of Minnesota. From that bus Senator Wellstone tirelessly assured people that he would struggle for peace and fight for veterans, that he would work to stop the tide of domestic violence and mental illness, and that he would defend our fragile environment. Most of all, that old bus brought hope and excitement to people whom for too long, and for too many reasons, felt that their government had forgotten about them. Now that he is gone, that bus must not sit and rust away. We must have the courage, the commitment, and the strength to keep that bus rolling.

I will miss Paul Wellstone greatly. I know that we all will.

HONORING TERRY FARMER HUMBOLDT COUNTY, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Terry Farmer of Eureka, who is being honored for his twenty years of public service as the District Attorney of Humboldt County, California.

Mr. Farmer has had a long and distinguished career as a public servant in our community. He has served on numerous community boards and organizations to help make the community a better place in which to live. Prior to being appointed a deputy district attorney, he was elected to the Trinidad City Council and as a member of his local school board. He was elected District Attorney of Humboldt County in 1982.

As district attorney, Mr. Farmer strived to achieve an outstanding system of justice, defined by professionalism and integrity. He developed a culture of excellence that reinforced competence and ethical values within the office.

During his tenure, the district attorney's office assumed a leadership role in the Child Abuse Services Team, a consortium of law enforcement, child protective workers, mental health professionals and victims working to improve investigations, convict molesters, and protect children. The program remains a model throughout the state of California.

Mr. Farmer worked collaboratively to develop a program to crack down on the use of methamphetamine in our community, while working to increase public awareness and improve treatment services to deter people using the drug.

Mr. Farmer graduated from the University of Minnesota in 1972. He concluded 6 years of service as a 2nd Lieutenant in the U.S. Army National Guard. He has ably served our nation, our state and our community.

Mr. Speaker, it is appropriate at this time that we recognize Terry Farmer for his vision, leadership and commitment and for his extraordinary record of public service to the people of the North Coast of California.

ON THE RETIREMENT OF DR. ARTHUR H. WU AFTER 28 YEARS OF DISTINGUISHED FEDERAL SERVICE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mrs. MORELLA. Mr. Speaker, I rise to congratulate my constituent, Dr. Arthur H. Wu, for 28 years of meritorious federal service. In my Congressional tenure, I have been very proud to represent and serve the interests of our nation's most distinguished federal employees. These civil servants help to make our country safe, functional, and effective. We value their service and, today, I would like to specifically recognize Dr. Wu for his contributions to our nation upon his retirement from the Navy on December 20, 2002.

In his years of federal service Dr. Wu has made several notable contributions and attained a number of exceptional achievements. He was a top-ten finalist for the U.S. National Federal Engineer of the Year Award in 1997, as well as a two-time winner of the Naval Facilities Engineering Command (NAVFAC) Engineer of the Year Award in 1985 and 1996. For these honors, he was recognized for: his significant contributions to the application of numerical modeling and computational analysis of foundations and dry-dock safety that resulted in millions of cost savings to the Navy; his exemplary leadership in directing and preparing engineering standards, criteria, and computer software used by practicing engineers in site selection and design in areas of high security; and for over conserving an estimated $20 million of Navy resources and providing for enhanced military readiness. In addition to the above three major awards, Dr. Wu has also received over 20 special awards for his engineering design achievements and innovative technical developments.

Dr. Wu has ably served our nation well in a number of capacities including Senior Geotechnical Consultant, Acting Chief Engineer, Director of the Applied Engineering Division, and Technical Discipline Leader for the Naval Facilities Engineering Command and Naval Facilities Engineering Service Center. Dr. Wu is recognized worldwide as one of the premier problem solving engineers in the Naval Facilities Engineering Command. His reputation for expert and thorough engineering analyses and support for ongoing design and construction projects are well known within the Department of Defense and private industry.

Mr. Speaker, I would like to thank Dr. Wu for his years of service too our federal government. I offer him my warmest congratulations on his retirement and best wishes in his future endeavors.

THE UKRAINIAN FAMINE AND HUNGER IN AFRICA

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. SCHAFFER. Mr. Speaker, as Co-Chair of the Congressional Ukrainian Caucus, I rise today to commemorate those innocent victims murdered by the Soviet regime during the Ukrainian Famine. Mr. Speaker, I also call the attention of the House to the famine presently being waged against the people of Zambia, Zimbabwe and South-central Africa.

This year, on November 23, the world observes the 69th anniversary of Ukraine's Great Famine—an unspeakable event. By presidential decree, every fourth Saturday in November is a national day of remembrance for famine and genocide victims throughout Ukraine. History has not witnessed a greater moral injustice. This was genocide unlike any other example in the history of human civilization.

At the time of the Great Ukrainian Famine, playwright George Bernard Shaw and his friend, Lady Astor, had a rare visit with Josef Stalin. ''When are you going to stop killing people?'' Lady Astor brazenly asked of Comrade Stalin. His terse reply: ''When it is no longer necessary.''

Stalin's favorite killing tool was mass starvation, a tactic he used ruthlessly against his own people. ''The collectivization program in Ukraine resulted in a famine which cost not less than 3,000,000 lives in 1932. It was a Stalin-made famine,'' reported Time Magazine in its January 1, 1940, issue. We know now, the more realistic estimate is more than twice that originally reported by Time.

The Ukrainian Famine of 1921–1923 was a human tragedy perpetrated by the Soviet regime in an attempt to destroy Ukraine and its culture and leave behind an amorphous mass of people that could be restructured and redefined to serve the Soviet Union. It began as a process of assimilation, but soon turned to the collectivization and then subjugation of Ukrainian peasants, their lands, and their livelihoods. Most paid the ultimate price for their heritage, culture and orientation toward independence.

Bolshevik partisans confiscated grain from Ukrainian peasants and subsequently exported the stolen food to foreign nations and other regions of the Soviet empire. Those who protested were imprisoned, deported, or often killed on the spot. This grain, belonging to Ukraine, would have saved thousands of Ukrainian lives. Instead, it was callously shipped off for purposes of generating state profit, sometimes left to rot on the docks, or shipped to meet the needs of Russia's population. Once the famine ended, Ukraine's population was further decimated by a series of epidemics.

The Commission on the Ukraine Famine, appointed by Congress in 1986, researched and documented this terrible event. The commission confirmed these horrible events and verified the cruelty with which the atrocity was executed. The deliberate mass starvation did indeed constitute an act of genocide against Ukrainians. The commission's findings are recorded in the CONGRESSIONAL RECORD for posterity, as is the graphic and sobering testimony of genocide survivors.

Mr. Speaker, Members of the Congressional Ukrainian Caucus have, in prior years, risen here on the House floor in observance of the Ukrainian Famine and in solidarity with the survivors of this terrible tragedy. We have taken great efforts to ensure this House never forgets. In fact, we honor the lives of the victims by rededicating ourselves to summoning the strength and courage of our own nation and the conscientious voices of its leaders in the Congress to stand in firm contradiction to any new tyrant who would contemplate such devastation through intentional famine.

Today's observance compels me to also speak out against one such example of starvation currently taking place in south-central Africa. Mr. Speaker, America must be unambiguous in its opposition to the deliberate famine presently being orchestrated there by an alliance of clearly defined conspirators.

As in Ukraine seventy 70 years ago. Southern Africa's famine has less to do with drought and everything to do with pure politics. Today, nearly 13 million people in Southern Africa face a similar starvation.

''We're staring catastrophe in the face—unless we get food aid fast to millions of people whose lives are in the balance because they are starving,'' said James Morris, the UN's special envoy to the region.

Officials blame environmental groups such as Friends of the Earth and Greenpeace that have pressured African countries like Zambia to halt shipments of food aid from the United States and other nations willing and able to relieve the famine and save precious lives. The groups oppose so-called genetically modified (GM) foods. Extremist groups have put their ideology—opposing the importation of all such hybrid agricultural products—ahead of the lives of starving people.

''It's very disturbing to me that some groups have chosen a famine to make a political point,'' says Andrew Natsios, administrator of the U.S. Agency for International Development (USAID). ''The lives of 13 million people are at risk.''

Natsios said the U.S. is ready to supply more than 75 percent of all the food coming into starving Southern Africa. ''If they don't get food from us they're not going to get it,'' he said.

This year, for example, Zimbabwe has refused to accept U.S. corn, convinced by radical groups that GM gain might somehow ''contaminate'' native crops. Some of this lifesaving corn was grown in my own state of Colorado. Adding more disinformation, Friends of the Earth claims ''the U.S. is disposing of its rejected food on Africa,'' in a news release last month.

Just as in Stalin's days, truth has seldom been an ally of the Left. Natsios, who says the U.S. has been supplying GM foods to the region for the past seven years, also says it is the same food sold and consumed in the United States. ''I've never seen, in my 30 years of public service, such disinformation and intellectual dishonesty,'' he said.

As for problems with modified crops—there are none. Concerned about the lives of millions of people desperately in need, the World Health Organization (WHO) released a report at the end of the summer assuring GM foods are perfectly safe. ''Southern African countries should consider accepting GM food aid in the face of the humanitarian crisis facing the region,'' urged WHO Director General Gro Harlem Brundtland.

Like the notorious 1932–1933 mass starvation in Ukraine, famine is not always borne of a natural disaster. However, famine can become an effective ideological weapon.

Stalin himself would have been proud of the sordid partnership forged by radical environmentalists and African tyrants. What are a few million lives worth to this axis of hunger when there are political statements to be made?

Mr. Speaker, I urge the House to speak in strenuous objection to this African tragedy unfolding before our very eyes. The extreme human price paid for the lessons of the Great Ukrainian Famine should not be dismissed now to the complacency of an overwhelmed world. To permit this new festering scourge is to insult the memory of those poor Ukrainians who have perished while trivializing the dignity of their survivors whose lives command us to respond with immediate courage.

HONORING FORMER CONGRESSMAN BUD SHUSTER

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. OBERSTAR. Mr. Speaker, I rise today to express congratulations to a former colleague, Congressman Bud Shuster of Pennsylvania, for an honor he recently received.

Earlier this week, Bud Shuster was named the ''Transportation Person of the Century'' by the Associated Pennsylvania Constructors (APC) in honor of the tremendous contributions he has made to the nation's transportation and infrastructure systems. It is a tribute to Bud that APC rightly recognized the role that he played in ensuring that our communities have transportation choices, such as transit, rail systems, pedestrian walkways, Amtrak, and bike paths.

Bud Shuster spent his career building America. Bud served in the House of Representatives for 28 years, six of those as Chairman of the House Transportation and Infrastructure Committee, the largest and most productive committee in Congress. His perseverance, patience and willingness to find common ground made him one of the greatest committee chairmen we have seen in recent years in the House. His extraordinary achievements as Chairman speak for themselves, and he has the respect of his former colleagues on both sides of the aisle.

Part of the joy of working on the Transportation and Infrastructure Committee is the way in which we work together to develop bipartisan bills. As a committee, we worked extraordinarily well over the six years of Bud's leadership. I had the pleasure of working with him on many major pieces of legislation to improve the nation's transportation and infrastructure systems, including TEA–21 and AIR–21. Throughout his service on the Transportation Committee, Bud Shuster demonstrated effective bipartisan leadership in showing that transportation, infrastructure and environmental programs make a real difference in all Americans' lives.

He retired from this body at the beginning of the 107th Congress, and since that time, I have missed him, not only for his policy expertise, but also for his friendship. I commend and congratulate Bud Shuster on his distinguished career as a public servant.

A SPECIAL TRIBUTE TO RICHARD H. FINAN FOR HIS DEDICATED SERVICE TO THE OHIO GENERAL ASSEMBLY AND TO THE STATE OF OHIO

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to an outstanding gentleman, and good friend, from Ohio. Dick Finan, from the Village of Evandale, is the outgoing President of the Ohio Senate. He is being honored for his dedicated service and loyalty to the Ohio General Assembly and to the citizens of Ohio.

Mr. Speaker, President Richard H. Finan began his career in public service in 1963. He served as a Councilman in the Village of Evandale until 1969, when he was then elected to serve as Mayor.

After serving the citizens of Evandale for ten years, he ran for and was elected to the Ohio House of Representatives. There he served with distinction until 1978. He was elected to the Ohio Senate upon leaving the House of Representatives and in 1997, was elected by his colleagues to serve as Senate President.

President Finan has had a significant impact on public policy in Ohio. He has also reached out nationally in an attempt to improve the lives of all citizens living in this great land. He currently serves as Chairman of the University of Dayton Board of Trustees and is a Past President of the National Conference of State Legislatures. Serving his community and the State of Ohio was not only Dick's duty, but also his honor. These chances to give back to the public have brought him a lifetime of both personal and professional achievement. President Finan truly is a valued asset to the Village of Evandale and to the state of Ohio.

President Finan has been a great resource and a true friend to everyone around him. Respected by his colleagues in the legislature and in the private sector, Dick has shown the ability to improve the environment around him. He has been the recipient of many awards that reflect his service, including the Tree of Life Award from the Jewish National Fund, the President's Medal from Miami University, the Distinguished Citizen Award from the Medical College of Ohio, and the William Howard Taft Americanism Award from the Anti-Defamation League. He is an Honorary Alumni Member—Omicron Delta Kappa—at the University of Dayton and holds an honorary degree from Xavier University.

President Finan will be missed in the public arena. His wisdom, honesty and forthrightness are attributes to which all public servants should aspire. He has set an example for everyone on how to live a life of service, putting the greater interests of the community before one's own.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to President Richard H. Finan. Our communities are served well by having such honorable and giving citizens, like Dick, who care about their well being and stability. We wish Dick, his wife Joan and their four children all the best as we pay tribute to one of our nation's finest citizens.

TRIBUTE TO REVEREND LAVAUGHN VENCHAEL BOOTH

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to honor the life and accomplishments of Reverend Lavaughn Venchael Booth, a distinguished friend and champion of faith and justice from Cincinnati, who passed away on November 17.

Born on January 7, 1919 in Covington County, Mississippi, Reverend Booth received a bachelor's degree in American history from Alcorn A&M College; a bachelor's degree in divinity from Howard University; and a master's degree in church history from the University of Chicago Divinity School. He began his ministry with First Baptist Church of Warrenton, Virginia and continued his ministry with First Baptist Church of Gary, Indiana. He pastored Zion Baptist Church in the Avondale area of Cincinnati for 32 years before founding the Olivet Baptist Church in Silverton. Last year, he came out of retirement to pastor the Church upon the Rock in Anderson, Indiana.

In 1961, Reverend Booth founded the Progressive National Baptist Convention (PNBC). The PNBC became the household of Rev. Dr. Martin Luther King Jr. and the civil rights movement among African-American Baptists. As Dr. Lewis V. Baldwin noted, ''King, while siding with progressives, had no active role with the organization of the PNBC.'' Dr. King at his last meeting with the PNBC in 1967 in Cincinnati emphasized according to convention minutes ''that he is a member of the PNBC. He has come to speak not as a civil rights leader, but as a minister of the gospel.'' The PNBC split from the National Baptist Convention and formed a denomination that played an active role in the civil rights movement by joining with the Southern Christian Leadership Conference and provided Dr. King with a national platform. Reverend Booth served as its president from 1971–1974. Progressives today have 2.5 million members in 1,800 churches nationwide.

But Reverend Booth's focus was his local ministry, and he said, ''We should have concern for the physical, as well as the spiritual well-being of people.'' He initiated economic development projects, secured the credit to build hundreds of low-income housing units and a church-run nursing home, and later established the region's first black-owned bank. Described as a visionary who dedicated his life to the Lord, he was driven to do for others, trying to make the world and his community a better place to live.

Reverend Booth's civil and community activities are legendary. He was the first African-American member of the University of Cincinnati Board of Trustees. He was a founding member of the Dr. Martin Luther King Jr. Center for Nonviolent Social Change, served on the board of the Cincinnati City Gospel Mission and as vice president of the Gospel World Alliance. He helped to establish the Marva Collins Preparatory School in Cincinnati; the Cincinnati Ecumenical Prayer Breakfast, a service that offered prayers for newly-elected public servants; and the National Prayer League.

Reverend Booth is survived by his sons, Paul Booth of Cincinnati, who is a member of

the Cincinnati City Council; Lavaughn Booth Jr. of Chicago; and Rev. Dr. William Booth of Hampton, Virginia; and daughters Anna-Marie Booth of San Francisco, and Dr. Georgia Leeper of Memphis. He is also survived by 14 grandchildren and 3 great grandchildren. We are blessed by his life and having known him.

PERSONAL EXPLANATION

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. MCCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 484, I was unavoidably detained. Had I been present, I would have voted ''aye.''

RECOGNIZING CONGRESSMAN BILL COYNE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. MURTHA. Mr. Speaker, today I would like to pay tribute to my long time friend and colleague. BILL COYNE will retire from this institution after serving 11 terms as a Member of this institution.

Bill is a lifelong resident of Pittsburgh, and so like myself, is a native of the southwestern Pennsylvania district he has so faithfully represented for the past 22 years.

The 14th District includes the city of Pittsburgh as well as 33 other surrounding communities in the very heart of this country's steel producing center. From his post as a senior member of the Ways and Means Committee, he has been able to develop and promote countless economic policy initiatives to the benefit of the Southwestern region as well as the Nation, including those dealing with Social Security, trade, tax reform, health care, housing and community development, job creation, and job training.

In addition to serving as ranking member of the Ways and Means Oversight Subcommittee BILL has served on the Banking Committee, the Budget Committee, the Committee on House Administration, and the Committee on Standards of Official Conduct. He has consistently used his committee assignments to promote federal policies to the benefit of urban America.

During the 103rd Congress, BILL succeeded in making the tax-exempt Industrial Development Bond permanent. IDB's helped to create or retain more than 26,000 manufacturing jobs in Pennsylvania alone between 1987 and 1992. He also led the successful House Ways and Means opposition to a proposed $1 per gallon hike in the Federal fuel tax for waterway commerce in 1993, which was of enormous economic benefit for the Three Rivers area he represents.

Bill also successfully inserted language in the 1993 reconciliation bill that provided low-income workers with an improved opportunity to receive an Earned Income Tax Credit on a monthly basis, instead of waiting for a single annual payment.

In the 104th Congress, BILL COYNE worked with many of his Democratic colleagues to protect Federal funding for programs serving children, seniors, and working families, and to ensure that the burden of Federal taxation was not disproportionately borne by working families. He also worked to provide tax incentives for businesses and municipalities to clean up and redevelop abandoned industrial sites, and he worked to expand protection for workers' rights in international trade agreements.

In the 105th Congress, he worked for middle-class tax relief while balancing the Federal budget responsibly. He was a supporter of both the Taxpayer Relief Act of 1997 and the Balanced Budget Act of 1997. He worked successfully to include a provision in the Taxpayer Relief Act of 1997 which allowed businesses to deduct the cost of cleaning up brownfields sites in certain targeted areas. He was also actively involved in developing and enacting legislation to reform the Internal Revenue Service, and much of his Taxpayer Bill of Rights legislation was in that bill.

BILL COYNE worked to make organ transplant regulations fairer and worked with me to make the Disproportionate Share Hospital program's formula for hospitals fairer as well. He also worked to provide nearly $800 million in projects for his district in the Transportation Equity Act for the 21st Century (TEA–21) including reconstruction of Drake, Library and Overbrook trolley lines, construction of an extension of the MLK Jr. Busway, construction of an industrial access road in Lawrenceville, and construction of transit links between downtown and the North Shore.

During the 106th Congress, BILL COYNE continued to work to protect federal programs that serve children, senior citizens, the disabled, and working families; enact a Medicare prescription drug benefit; strengthen U.S. laws that punish unfair foreign trade practices; protect Americans' pensions and other retirement benefits; increase funding for medical research and education; and make the Federal Tax Code simpler and fairer by reforming the capital gains tax and the alternative minimum tax. He also worked successfully to increase public awareness about food stamp eligibility and to expand the brownfields tax provision and push back its expiration date by several years.

BILL COYNE is a graduate of Central Catholic High School and Robert Morris College. He served in the United States Army in Korea from 1955 to 1957. He worked as a corporate accountant for 13 years before entering politics in 1970. He served in the Pennsylvania House of Representatives from 1971 to 1972 and on the Pittsburgh City Council from 1973 until 1980.

I'm proud to have served alongside BILL COYNE and worked with him for these many years for the benefit of our adjoining districts and Pennsylvania as a whole. BILL's seniority on Ways and Means will be sorely missed by Pennsylvania. His expertise as a legislator will be missed by all Americans who were helped by his good work. His good nature, friendship, and collegiality will I know be missed by his fellow Pennsylvania Members and indeed by all of us here in the House of Representatives. Please join me in wishing him well in his retirement from public service.

IN HONOR OF STEPHEN BRAUNGINN

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. BALDWIN. Mr. Speaker, I rise today to recognize Mr. Stephen Braunginn, President and CEO of the Urban League of Greater Madison for his work in the community.

As a leader in the Urban League movement and in the Madison area community, Mr. Braunginn has focused on the continuing struggle for equal opportunity for all with a special focus on African Americans, other people of color, those with disabilities and the disadvantaged.

Prior to working with the Urban League, Steve served as the Deputy Director for the Wisconsin Clearinghouse for Prevention Resources for over four years. He was the first Director of Multicultural Affairs and Special Interest Groups for the Wisconsin Alumni Association at the University of Wisconsin-Madison.

He is also an educator, having taught in the Madison Schools for six years, working with students with learning disabilities and the gifted and talented. He served as a leader on the Wisconsin Education Association Council (WEAC) where he was also the leader of Teachers for a Free South Africa. In addition, Steve became active in developing a middle school for South Madison. When he was a teacher at Cherokee Middle School, he served on the Urban League Board of Directors, where he later became chair, serving for two years. During his tenure on the Urban League Board, Steve was selected to serve on the Madison School's South Madison Advisory Committee, which eventually developed the framework for Madison Middle School 2000 which later became James C. Wright Middle School.

Steve served on the Dane County Board of Supervisors for six years. During this time he chaired the Personnel and Finance Committee and the Dane County Human Services Board. He has been on many community commissions, served numerous organizations, and has also received a variety of awards for his service to the Madison area community.

As the Wisconsin Community Fund honors Steve Braunginn, I am proud to join them in thanking him for his dedication and service to the community.

LONG ISLAND'S HOUSING CRISIS

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. ISRAEL. Mr. Speaker, I rise today to once again note the severe affordable housing crisis my constituents face on Long Island.

Today's Newsday carried an article by Christian Murray revealing some truly disturbing statistics. According to the U.S. Census Bureau, 26 percent of Long Island households pay more than 35 percent of their gross monthly income on either rent or mortgage. For over fifty years Americans have been cautioned to keep housing expenses under 25 percent of their income. The 35 percent average is a genuine crisis.

Pearl Kamer, an economist who wrote the report for the Island's leading affordable housing organization, the Long Island Housing Partnership, noted that ''with many people paying so much on housing, there is little left over for food and medical care.''

Mr. Speaker, this housing crisis is having a terrible effect on Long Island's families. The fact that young people—often college graduates with good jobs—cannot find adequate, affordable housing, means that those young people are leaving Long Island. And if companies can't rely on a stable workforce, they will choose to locate somewhere else.

The lack of affordable housing on Long Island is not merely about some families having to pay too much. It is a problem that permeates every part of our community's life. Young people are forced out of our region. Jobs disappear as companies decide they can no longer depend upon a solid workforce. And our communities dissolve as the very foundation on which that community was built erodes.

Mr. Speaker, when the 108th Congress convenes in January, we must quickly address the issue of adequate housing in America.

I ask that the text of today's Newsday article be included in the RECORD at this time.

[From Newsday, Nov. 21, 2002]

MORTGAGING LI'S ECONOMIC FUTURE

(By Christian Murray)

Skyrocketing rents and booming home prices are forcing more than 200,000 Long Island households to pay more than one-third of their income on housing, according to a comprehensive new study released yesterday.

The study, ''Lack of Affordable Housing: Prescription for Economic Disaster,'' found 26 percent of Long Island households pay more than 35 percent of their gross monthly income on either rent or mortgage.

''These findings are dire,'' said Pearl Kamer, a regional economist who conducted the study for the Long Island Housing Partnership. The U.S. Department of Housing and Urban Development guidelines say households should not spend more than 30 percent of their gross income on housing.

''With many people paying so much on housing, there is little left over for food and medical care,'' Kamer said at a news conference at North Shore University Hospital in Manhasset yesterday. Kamer added that the high cost of housing is forcing many people, especially young families, to leave Long Island, and this exodus will hurt the region when the economy picks up and companies can't find workers.

While affordable housing has long been an issue on Long Island, the problem has been exacerbated by the hot real estate market in the past four years, when home prices have soared 81 percent while household incomes have risen only 14 percent, Kamer said.

Jim Morgo, president of the Hauppauge-based Long Island Housing Partnership, said he has established a task force of industry and nonprofit officials to take the study's findings to every municipality across the Island, as a means of prodding officials to make way for more affordable housing.

The study, based on 2000 census figures, analyzed median incomes and housing costs in more than 250 communities by individual census tract.

It found that about one quarter, or 165,000 of Long Island's 672,000 homeowners, paid at least 35 percent for a place to live—including mortgage payments, property taxes and insurance. In some Nassau County neighborhoods, including Elmont, Hempstead Village, Uniondale and Roosevelt, at least 20 percent of the owners spent more than 50 percent of gross income on housing. And this scenario also occurred in the Suffolk neighborhoods of Wyandanch, North Amityville, North Bay Shore and Brentwood.

The study also found that one-third of tenants across Long Island paid more than 35 percent of household income in rent. In many neighborhoods—such as Central Islip, North Amityville, Wyandanch and Lawrence Village—about 40 percent of renters pay more than half their wages on shelter. Rental units account for about 19 percent of Nassau's housing stock and 18 percent of Suffolk's—low, compared with 38 percent of Westcheter and 27 percent in Rockland.

But some Nassau neighborhoods, including Manorhaven, Hempstead Village, Great Neck Plaza, Long Beach and Glen Cove, have more than 40 percent of their housing units in rental apartments. And in Suffolk, Bay Shore and Patchogue both have high ratios of rental units to owner-occupied housing.

Elizabeth McCarthy, who grew up in Dix Hills and works at Canon USA's Lake Success offices in marketing, said at the news conference she's been struggling to find housing after graduating from Marist College in 1998. Earning about $31,000 annually, she rented a studio apartment for $900 per month in Bay Shore—but it was too costly. ''I thought about leaving the area [Long Island].'' She started looking for a house with her parents. ''I was shocked to find that there was nothing out there, never mind anything in my price range.'' Eventually, she was able to buy a subsidizing affordable home through the Housing Partnership at the Highview, a complex in Huntington.

Kamer added that since the 2000 census, when the data were gathered, the affordable-housing crisis has most likely worsened.

Kamer said that many young workers, unable to afford housing here, are leaving. And many of these workers who have lower-paying jobs are essential to the Island's economy.

Suffolk County Executive Robert Gaffney said some towns are reluctant to build rental units or affordable housing, fearing that it will decrease the value of an area. But if employers don't have the labor force they'll need because young workers leave, they'll set up businesses elsewhere.

Among Morgo's list of possible solutions is his call to get towns to allow for greater zoning flexibility, when developers put forward proposals for affordable-housing units. While many young people earn much more than their parents, he said, they are unable to afford a home. ''It's the inversion of the American Dream,'' Margo said.

FEELING THE PINCH

Communities on Long Island with the highest percentages of homeowners spending more than 35 percent of their income on housing costs. Minimum 3,000 housing units.

1. Hempstead Village: 34.9 percent.
2. Elmont: 34.2 percent.
3. Brentwood: 31.1 percent.
4. Dix Hills: 30.0 percent.
5. Central Islip: 29.9 percent.
6. Copiague: 29.7 percent.
7. Bay Shore: 29.5 percent.
8. Franklin Square: 29.3 percent.
9. North Valley Stream: 29.3 percent.
10. Freeport: 28.8 percent.
11. East Islip: 28.7 percent.
12. Greenlawn: 27.9 percent.
13. Uniondale: 27.8 percent.
14. West Babylon: 27.5 percent.
15. Deer Park: 27.4 percent.
16. Ridge: 27.0 percent.
17. St. James: 25.9 percent.
18. Selden: 25.9 percent.
19. North Massapequa: 25.8 percent.
20. Glen Cove: 25.7 percent.
21. Lindenhurst: 25.7 percent.
22. Long Beach: 25.7 percent.
23. West Islip: 25.7 percent.
24. South Farmingdale: 25.6 percent.
25. Merrick: 25.5 percent.

Source: U.S. Census Bureau, Census 2000.

RECOGNIZING THE LAO STUDENTS MOVEMENT FOR DEMOCRACY AND THE URGENT NEED FOR HUMAN RIGHTS REFORMS IN LAOS

HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. SMITH of Washington. Mr. Speaker, last month marked the third anniversary of the bloody intervention by Lao communist security forces against peaceful student demonstrators. In October of 1999, the communist regime in Vientiane sought to crush the Lao Students Movement for Democracy. I was recently honored to join with Laotian-American constituents and survivors of this brutal crackdown to speak at the Congressional Forum on Laos, which had a series of special events in the U.S. House of Representatives this year to mark the anniversary of this dark chapter in the history of Laos and the free world.

Mr. Speaker, my district is the home to many freedom-loving Lao-Americans as well as the Lao Students Movement for Democracy—whose members are comprised largely of the survivors of the pro-democracy movement in Laos in 1999. The students escaped the Lao communist regime to neighboring Thailand and then were admitted to the United States as refugees after the outpouring of concern by Laotian-Americans in the South King County area. Sadly, however, many of the Lao pro-democracy student leaders and their families still remain jailed in Laos and have disappeared into their horrific prison system. Amnesty International continues to raise concerns about their plight and the systemic torture that exists within the prisons and gulag system of Laos.

Mr. Speaker, I would like to commend and thank the leaders of the Lao community for their steadfast efforts on behalf of freedom and democracy in Laos and for the hard work of all those involved in organizing the U.S. Congressional Forum on Laos sessions held on September 17 and October 1st.

Mr. Speaker, I remain deeply concerned about the ongoing plight of the Lao students leaders and others who are still jailed in Laos for their political or religious beliefs, or simply because they are members of an ethnic minority like the Hmong people. I would urge my colleagues, therefore, to work toward helping to bring freedom, hope and human rights to Laos and its suffering people. We should remember those who are still persecuted and jailed in Laos, struggling for basic human rights and freedoms.

Mr. Speaker, I would like to include into the RECORD the following news article from the Agence France Press (''Lao Exiles Demand Freedom for Imprisoned Comrades,'' July 18, 2002) regarding the Lao Students' efforts in Congress in Washington, DC:

Exiled dissidents have demanded the release of five colleagues who have disappeared

into the prison gulag in Laos, following unprecedented anti-Communist protests.

The Lao government is holding five of the eleven strong core leadership of the Lao Students for Democracy after it crushed surprise protests in the capital, Vientiane, in October 1999.

Six others, two of whom appeared at a U.S. Congressional forum devoted to their cause, on Wednesday, escaped to Thailand, before being granted political asylum by the United States.

''My colleagues are still in jail, they are asking for peace and justice for the Lao people, I would like them to be put on trial as soon as possible,'' said one of the leaders, Aly Chantala.

Another dissident leader Nouamkhan Khamphylavong added: ''We still heard nothing about their fate since they were arrested.''

Rights group Amnesty International has accused the ruling Lao People's Revoluntionary Party of denying that the arrests even took place and of holding prisoners in cruel and degrading conditions.

Campaigners say the five student leaders were arrested, tortured an incarcerated by the Lao government in violation of the country's one year limit on detention without trial.

They want the United States and world financial bodies to withhold financial aid and make trade benefits for Laos conditional on improvements in its human rights record and the granting of political rights.

Some business groups and sectors of the U.S. administration have, however, being pushing for Laos to be granted normal trade relations with the United States, arguing that economic opening will trigger an easing of the political situation.

Wednesday's event in a Congressional building was part of an ongoing campaign to block the aspirations of the pro Laos-trade lobby.

HONORING THE EDUCATIONAL CAREER OF HULON WATSON

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. GORDON. Mr. Speaker, I rise today to congratulate Hulon Watson for an outstanding 44-year career in education. He has spent the last 5½ years helping my hometown of Murfreesboro, Tennessee, deal with a population explosion as the school superintendent for Rutherford County. Prior to that post, Hulon served 18 years as the principal of Murfreesboro's Riverdale High School.

But after more than four decades as an educator, Hulon has decided to retire and spend more time with his wife, Charlotte; their two children; and their four grandchildren and two great-grandchildren. Hulon's last official work day will be December 31 of this year.

Hulon began his career as a teacher and coach in nearby Winchester, Tennessee. After he moved to Murfreesboro in 1979 to take the principal's position at Riverdale High School, he began helping Rutherford County students achieve success. And when he took over the helm of the Rutherford County School System, he helped raise scholastic standards countywide and guided a vigorous campaign to build much-needed schools.

Hulon did all this during a time when every penny counted. Rutherford County can now count itself as among one of the best, most efficiently operated school systems in the entire nation. In years to come, Rutherford County residents will be able to see Hulon's legacy through their prosperity. I congratulate him for his efforts and accomplishments in providing Rutherford County children with an education second to none and wish him the best in his well-deserved retirement.

CENTRAL NEW JERSEY CELEBRATES THE MONMOUTH COUNCIL OF GIRL SCOUTS, INC. 2002 WOMEN OF DISTINCTION

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. HOLT. Mr. Speaker, I rise to recognize and celebrate the Monmouth Council of Girl Scouts, Inc. 2002 Women of Distinction honorees and their significant contributions to Central New Jersey.

For forty years, through its efforts, the Monmouth Council of Girl Scouts has served tens of thousands of young women across Central New Jersey. This year's women of Distinction honorees exhibit the altruistic ideals that our Nation needs now, more than ever. These ideals, no doubt grew from their involvement in Girl Scouts and the grounding principles of the Girl Scout Promise and the Girl Scout Law which read as follows:

THE GIRL SCOUT PROMISE

On my honor, I will try, to serve God and my country, to help people at all times, and to live by the Girl Scout Law.

THE GIRL SCOUT LAW

I will do my best to be honest and fair, friendly and helpful, considerate and caring, courageous and strong, and responsible for what I say and do; And to, respect my self and others, respect authority, use resources wisely, make the world a better place, and be a sister to every Girl Scout.

The 2002 Women of Distinction Honorees are Carole Robinson for her inspiring Girl Scout spirit, Anna Diaz-White and Paulette Roberts for their professional excellence and Sister Ellen Kelly for her dedication and service to our community. As we celebrate women's History Month, we honor each of these recipients for their hard work and dedication and we celebrate the legacy they have created for women and women's history in Central New Jersey.

Mr. Speaker, again, I rise to celebrate, honor and command these outstanding New Jerseyans. I have personally observed the effective work of some of these honorees and I ask my colleagues to join me in recognizing their invaluable contributions to our community and to New Jersey.

IN HONOR OF NATIONAL ADOPTION MONTH

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mrs. McCARTHY of New York. Mr. Speaker, I rise in strong support of November being National Adoption Month. Every year, thousands of American families are blessed by adoption. Whether through domestic or international adoption of children from foster care, the love of compassionate families embraces children of all ages and from every background. During National Adoption Month, we recognize the heartfelt commitment of these good citizens, and we renew our pledge to make adoption a more accessible and positive path for American families.

Children thrive in loving families where they are nurtured, comforted, and protected. We are making important progress in placing children in foster care with adoptive families, and the overall number of children being adopted continues to rise. In the past five years, adoptions have increased dramatically, and thus far in 2002, tens of thousands of children have already been adopted.

In addition, as a member of the Congressional Caucus on Adoption, I have worked to ease the financial burden on adoptive families and to ensure that more children find a caring, permanent home.

But with most adoption costs ranging from $8,000 to $20,000 and even upwards of $30,000, many families can not afford this huge expense. No child should be forced to grow up without a family because of the tremendous cost of adoption.

That's why I am proud that the President signed into law a bill I supported from its inception that provides for an Adoption Tax Credit for those who take this important step into parenthood. As part of the Economic Security and Worker Assistance Act of 2002, this provision will go a long way to making adoption more affordable.

Mr. Speaker, every child deserves a permanent, loving home and, with so many families who want to open their hearts and their homes to these children, this measure will help remove the financial barriers that may hinder this union.

Therefore, Mr. Speaker, on behalf of my constituents of the fourth Congressional district of New York, I, Congresswoman CAROLYN McCARTHY, do hereby commend Nassau County Executive Thomas R. Suozzi, the Nassau County Department of Social Services and the Nassau County's Surrogate's Court for finalizing the adoptions of thirty-two children from foster care.

HONORING VIRGINIA GAINES FOX

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. FLETCHER. Mr. Speaker, It is an honor to rise today to pay tribute to a trailblazer, a visionary, a dedicated public servant, and a Kentucky original. I speak of the inimitable Virginia Gaines Fox, president and CEO of Kentucky Educational Television, who is retiring next month after 42 years of service in public broadcasting.

Virginia Fox—or Ginni, as she is known by her friends and colleagues—has created a legacy of innovation, public service and the highest standards of excellence. Under her astute leadership, she has built KET into an industry leader. Kentucky Educational Television is the number one provider of adult education in America, providing thousands of broadcast hours of instructional programming to classrooms and hundreds of hours of professional

development resources to Kentucky's K–12 instructors. KET's GED on TV program has helped 11,400 adults in Kentucky—and literally millions more across the country—to earn their high school diploma.

KET is also leading the way in the industry's digital conversion, pioneering datacasting services for Kentucky communities in partnership with Federal, State and local agencies—particularly in the area of public safety, weather alerts, and homeland security. This initiative is serving as a model for similar efforts around the country.

Virginia Fox has been an innovator in distance learning throughout her prestigious career. She was a founding member of the congressionally-created Independent Television Service (ITVS) Board and created the first national ITV satellite schedule, serving more than 23 million students annually with distance learning curricula. She also founded the Satellite Educational Resources Consortium, the first public broadcasting/Department of Education interstate consortium for distance learning.

Virginia Fox's career is highlighted by numerous personal as well as professional accomplishments. She broke the glass ceiling by becoming the first female CEO of a national organization in public broadcasting. She has served on the board of the Public Broadcasting Service and chaired the Public Television Outreach Alliance. She received an honorary doctorate from her alma mater, Morehead State University, and earlier was named Appalachian Woman of the Year by that same institution. This year, she was inducted into the Kentucky Journalism Hall of Fame and received the Corporation for Public Broadcasting's Lifetime Achievement Award.

A seventh-generation Kentuckian, Virginia Fox proves once again that the great Commonwealth of Kentucky has an abundance of human resources. It has been my privilege to work with her during my tenure in Congress to ensure that America's children will continue to benefit from the finest educational programming available, and that they will enter formal schooling ''Ready to Learn''. She has demonstrated the power of television to educate, inform and inspire.

Mr. Speaker, the education of our children is one of our greatest responsibilities. Virginia Gaines Fox must be commended for her innovation, her vision, and her dedication to education. Her leadership will be sorely missed, but her retirement is richly deserved, and we wish her the very best that life has to offer.

SCHOOL PERFORMANCE NETWORK

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. COYNE. Mr. Speaker, I rise today to let my colleagues know about an important education initiative that is currently under way in western Pennsylvania. This initiative is the School Performance Network, an organization dedicated to disseminating best practices in education to teachers, and to encouraging connections and shared resources among educators.

The School Performance Network today consists of 33 public school districts and 3 dioceses from 14 different counties in western Pennsylvania. The organization's mission is to ''assist schools and districts in the development and use of systems, tools, and practices that help educators improve learning.'' The SPN attempts to improve educational outcomes through the pursuit of ''total performance.''

Total performance is a phrase used to describe a philosophy espousing continuous effort to promote greater student learning and achievement. This approach focuses on setting high achievement standards and developing a curriculum that meets them. Total performance seeks to use these standards and performance data to modify teachers' instructional approaches. It also seeks to ensure that teachers and principals take full advantage of available resource like religious and civic organizations—and that they use the available resources strategically to maximize performance improvements. This approach also endeavors to establish a culture that supports collective effort and accountability. Finally, it emphasizes establishing partnerships to enhance and extend student learning opportunities.

The School Performance Network provides schools with access to research that highlights the best teaching methods, as well as to colleagues with similar goals and different experiences. This organization also brokers external partnerships and promotes Cooperative Learning Teams that collaborate across geographic and political boundaries.

The stimulus for this initiative came from the Heinz Endowments. This philanthropic institution recognized that isolation limited the ability of individual schools to improve student achievement. In the course of a 1996 program review of school efforts to promote ''total performance,'' the Endowment's education staff, having made a number of grants to regional schools in order to improve education results, concluded that even greater progress could be made by promoting communication among these schools. The Endowment provided funding in 1998 to develop plans for establishing such a network. Subsequently, in early 2000, a pilot program consisting of 8 school districts was undertaken. Later that year, the pilot program was successfully concluded and the School Performance Network began expanding its membership.

I want to commend the Heinz Endowment for its vision in establishing the School Performance Network. I want to commend Dr. Mary Catherine Conroy Hayden for her leadership of the School Performance Network. And I want to thank the School Performance Network and its many partners for their efforts to improve the quality of education in this country.

Mr. Speaker, this regional collaborative effort holds tremendous potential for implementing education reform nation-wide. I urge my colleagues to explore the possibility of establishing similar efforts in their own communities.

HONORING FORMER PRESIDENT JORGE QUIROGA RAMIREZ OF THE REPUBLIC OF BOLIVIA

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. HASTERT. Mr. Speaker, I, along with the co-chairmen of the Speaker's Task Force for a Drug Free America, want to recognize Jorge Quiroga Ramirez, former President of the Republic of Bolivia, for his years of steadfast support, commitment and leadership in the fight against illegal drugs.

Most of us first met Jorge Quiroga in the early days of the Administration of former President Hugo Banzer, when he served as Vice President of Bolivia. He came to Washington early on in his tenure to seek U.S. support and backing for Bolivia's ''Dignity Plan''—a five year strategy to remove Bolivia from the international narcotics circuit. At the time he assumed office in August of 1997, Bolivia was the world's second largest producer of cocaine with nearly 113,000 acres of coca under cultivation.

The Dignity Plan that was presented to the U.S. Administration and the Congress was the product of a well-conceived political strategy designed to build domestic consensus within Bolivia against the drug trade. Late in 1997, civic, religious, labor, indigenous, private sector and political leaders met together under the leadership of then-Vice President Quiroga, in what was called the National Dialogue, a series of discussions and consensus-building meetings around four pillars: Opportunity (economic issues), Equity (social development), Integrity (institutional strengthening) and Dignity (fight against drugs). This last pillar, focused on how to move Bolivia out of the international drug trade circuit by 2002.

As a result, the Dignity Plan began its implementation by the end of 1997, with ambitious goals centered on four areas: Interdiction, Eradication, Alternative Development and Prevention.

We in Congress have occasionally heard foreign leaders make eloquent statements about their plans to reduce drug cultivation and work with the U.S. to end this scourge—plans that ultimately were not successful. Bolivia proved how such a program can be truly successful.

There were two things about the Dignity Plan that we found appealing. First, it was the product of an extensive discussion within Bolivian civil society, seeking to eliminate the drug trafficking stereotype for which this Andean country was known. Second, we found in Vice President Quiroga an honest and sincere individual whose commitment to Bolivia's future as a drug free country mirrored our own commitments here at home. Vice President Quiroga was precisely the kind of straight-talking, action-oriented leader that we believed was required to take real and meaningful action. A great many of us signed on to the Dignity Plan and did our best to provide political and financial support.

Over the past five years, as Vice President of Bolivia and later as President, Jorge Quiroga implemented the Dignity Plan with stunning success. This past August, President Quiroga turned over the Office to his democratically elected successor, the Honorable

Bonzalo Sanchez de Lozada. It is with great satisfaction we now take a look back at former President Quiroga's efforts and see how successful the Dignity Plan has been and what our investment in his vision earned.

Since the outset of the Dignity Plan in late 1997, the government of Bolivia has eradicated more than 130,000 acres of illegal coca.

The annual cocaine production in Bolivia has fallen by 70 percent.

In the past five years, nearly $3.0 billion in Bolivian cocaine was taken off the international market.

Alternative development programs in the Chapare, Bolivia's primary coca growing region, have taken hold and are providing stable and meaningful income to former coca growers. Today there are more than 290,000 acres of legal agricultural crops under cultivation in the Chapare.

In these areas, family incomes are rising, proving that the transition to legal agricultural activity can be successful.

In the law enforcement area, nearly 5,000 coca base labs were seized and destroyed and over 58 metric tons of drugs, including cocaine base, cocaine and others, were seized.

I am pleased to report these results to Congress to show that with the proper combination of leadership and political will, the battle against illegal drugs can be won. I am hopeful and optimistic that the Honorable Gonzalo Sanchez de Lozada, the new President of Bolivia, will pick up and continue where former President Quiroga left off, ensuring Bolivia remains a shining example of success in the Western Hemisphere.

Lastly, I wish to say thank you to President Quiroga, with whom many of us have worked so closely during the past five years. We have no doubt that his leadership, vision and commitment to Bolivia were essential to the remarkable success of the Dignity Plan program. He should take great pride in his extraordinary record of success in the drug war and know that he has many good friends in the U.S. Congress who are grateful.

H.R. 4546

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. TAYLOR of Mississippi. Mr. Speaker, as the House considers passage of the conference report to the National Defense Authorization Act for Fiscal Year 2003, I would like to recognize the contributions of an outstanding member of the staff of the House Armed Services Committee. His name is George Withers. Of all of the people I have come to know in my 13 years on Capitol Hill, I can truly say that I have not met a finer person than George Withers.

As a professional staff member of the Armed Services Committee since 1993, I have had an opportunity to work closely with George. Over these many years, I have come to appreciate his knowledge of the legislative process, judgment, professionalism and wisdom.

Although he has a heart of gold, and a smile that is genuine as a sunrise, he was indeed mistaken for a very prominent elected official who is not known for his smile. One of the highlights of George's career on Capitol Hill was when President George W. Bush, upon meeting him, noted his resemblance to the Vice President and remarked, ''How's your heart?''

Around the world, there are likely many members of our nation's military who are watching this broadcast. George Withers was a Navy Aerographers Mate Third Class (AG3) with an Aircrew designation. He flew with VW–1 and VQ–1 flying WC–121 and EC–121 aircraft out of Danang during the Vietnam War. He also deployed and flew out of Agana, Guam; Cubi Point, Philippines; South Korea, and numerous other locations in the Western Pacific. A large number of those flights were electronic intercept missions over the Tonkin Gulf. During his distinguished service in the Navy, he earned the Bronze Star and completed 86 penetrations into the eye of typhoons as a typhoon-tracker.

George's service in Vietnam took place to the advent of the ''all volunteer force''. This was a time when folks often ''had to be there'' rather than ''volunteered to be there''. Since they had to be there, it was pretty obvious from those who were there that our nation didn't pay nearly enough attention to what they wanted their barracks or housing to look like, what there mess halls served for meals, or what they wanted in the way of recreational opportunities. George has spent the better part of his career on Capitol Hill correcting those mistakes, and seeing to it that they never happen again.

To the soldiers, sailors, airmen and Marines, who are living in new quarters or work in new facilities, it has been made possible with the great assistance of George Withers. If you're in one of these new facilities in South Korea, Germany, Ecuador, Mississippi, or serving anywhere in the world, credit for the quality of your quarters is often given to a Congressman or a Senator. However, I know for a fact that none of these important quality of life improvements for our nation's military personnel could have happened without the dedication and hard work of a great American named George Withers.

George, on behalf of the men and women in uniform, your friends here on Capitol Hill, and the countless other people that you have helped throughout your many years of military and public service, thank you. God Bless you in your retirement. You will be sorely missed.

NATIONAL JOURNAL STORY, ''BUSH'S QUIET PLAN''

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Ms. McCOLLUM. Mr. Speaker, I would like to submit the following National Journey story, ''Bush's Quiet Plan,'' for the RECORD. It clearly describes how this administration is rolling back our key environmental protections.

[From the National Journal, Nov. 23, 2002]

BUSH'S QUIET PLAN

(By Margaret Kriz)

The Bush administration is quietly but systematically working to make the 32-year-old environmental law that's considered the Magna Carta of national environmental policy less of an impediment to development. Environmentalists charge that, by routinely bypassing or greatly speeding up the preparation of environmental impact statements required under the National Environmental Policy Act, the Bush White House is chipping away at the very foundation of the Nation's environmental protections.

President Bush has taken steps aimed at expediting or even eliminating the environmental impact studies that federal regulators have long been required to conduct before any major development project—whether it involves a new dam by the Army Corps of Engineers or logging in a national forest—can be undertaken on federal property or with federal funds. Industry lobbyists applaud the administration's actions because, in their view, environmental impact statements have largely served as a weapon for anti-development zealots to wield in court.

Environmentalists contend that the administration's efforts to shorten the reach of the law known as NEPA are part of a continuing campaign to put resource development and business interests ahead of resource protection and environmental quality. ''The Bush administration views NEPA as an obstacle, not a tool,'' says Sharon Buccino, a senior attorney at the Natural Resources Defense Council. ''To the extent that they're removing these activities, like logging projects, from the NEPA process, they're cutting the public out of the process.''

NEPA is merely a full-disclosure statute: It forces regulators to make assessments and share them with the public, but it doesn't block projects that would harm the environment. Yet environmental groups have often been able to use the government's NEPA-mandated environmental impact statements in conjunction with the other environmental laws, such as the Endangered Species Act or the Clean Air Act, to persuade courts to stop or significantly modify controversial projects.

Under NEPA, all government agencies—from the Interior Department to the Navy to the Small Business Administration—must study the environmental implications of major projects before undertaking them. Private companies that receive federal funds or use federal lands also fall under NEPA's umbrella.

Business lobbyists cheer Bush for using his broad administrative authority to limit the public's ability to challenge industry projects on federal lands. Supporters of the administration's approach argue that environmentalists have abused NEPA by filing thousands of essentially nuisance lawsuits that stem from a philosophical objection to, say, drilling for oil on federal land, rather than from objections to the potential consequences of a specific drilling proposal.

''A lot of challenges being raised are part of a larger strategy to oppose energy development in this country,'' contends Lee Fuller, vice president for government relations at the Independent Petroleum Association of America.

NEPA's defenders charge that regulators are already producing slipshod impact assessments in their rush to comply with Bush administration demands for faster action. ''Asking them to do [the assessments] more quickly raises more opportunity for litigation,'' because careless work would leave the government open to charges of not having complied with NEPA, warns Jonathan Adler, an environmental law professor at Case Western Reserve University.

The controversy over the accelerating attempts to rein in NEPA centers on several administration actions:

A Forest Service proposal—leaked by environmentalists and slated to be formally released later this year—would allow federal

regulators to rewrite National Forest Management Plans without first assessing the environmental implications of the new plans. Forest plans are the blueprints for commercial development, recreation, and land preservation on the nation's 191 million acres of national forests and grasslands.

Bush's wildfire proposal, dubbed the ''Healthy Forests Initiative,'' would exempt 10 million acres of national forest lands from NEPA to speed up the logging aimed at thinning the trees in those forests. The plan was drafted in response to this summer's catastrophic forest fires and would allow commercial logging companies to remove some large, healthy trees as an incentive to participate in the thinning projects. The Democratic-controlled Senate blocked Bush's proposal, but the plan is certain to be resurrected after the Republicans take control of the chamber in January.

The administration tried to exempt most U.S.-controlled ocean waters from NEPA. But in October, a federal court rejected the Justice Department's contention that the environmental law's reach did not extend beyond this country's territorial waters, which end three miles offshore. The court ruled that NEPA applies within the nation's entire Exclusive Economic Zone, which extends 200 nautical miles offshore. That case was triggered by objections to Navy sonar tests, which environmentalists claim have caused whale beachings and permanent damage to whales and other sea mammals.

In September, Bush issued an executive order requiring federal regulators to speed up environmental assessments of transportation construction projects. Transportation Department officials say the administration is also considering legislation to amend the law's application to highway and other transportation projects. The administration has not taken a position, however, on a bill introduced this year by House Transportation and Infrastructure Committee Chairman Don Young, R-Alaska, that would create a separate, less rigorous environmental-assessment process for transportation projects.

In May, Bush ordered expedited environmental reviews of energy-development projects. Meanwhile, Sen. Ben Nighthorse Campbell, R-Colo., has urged that NEPA requirements be waived for energy development on tribal lands.

According to Forest Service officials, the administration plans to greatly expand the ''categorical exclusion'' provisions of NEPA to exempt certain kinds of logging projects—the logging of dead trees in burned forests, for example—from environmental impact statements. These exemptions would apply to far more than the 10 million acres included in Bush's forest fire proposal.

Meanwhile, the White House Council on Environmental Quality, which has jurisdiction over NEPA, has created an interagency task force focused on updating the NEPA process. James Connaughton, who heads the council, said the task force seeks to ''modernize'' the way federal regulators conduct their environmental reviews—by, for example, increasing the use of computers. Some departments, he said, ''are using the Pony Express when we could be using the electron to facilitate all kinds of interagency and external communications.''

Environmentalists are suspicious of the task force. ''This administration,'' Buccino says, took ''significant destructive actions related to NEPA before they had even begun the task force.'' Bush's critics contend that what the White House portrays as mere streamlining is actually part of a far-reaching campaign to grant polluters and developers relief from environmental safeguards by doing such things as easing restrictions on coal-fired power plants and scuttling a Clinton-era rule that preserves roadless regions in the national forests. ''They're saying, 'Trust us,' but we have no reason to trust them,'' says David Alberswerth, director of the Wilderness Society's Bureau of Land Management program.

Connaughton angrily denies that the administration wants to gut environmental protections and says the environmentalists' accusations are politically motivated. ''I think that there is a lot of chasing after ghosts,'' he says. (For a Q&A with Connaughton, see p. 3476.)

OVERDUE OR OVERBOARD?

The Bush administration's aggressive efforts to limit NEPA's role represent a marked change in federal environmental policy—and in some quarters, a welcome one. ''It represents a shift in the institutional perspective on NEPA,'' says Chris Horner, senior fellow at the Competitive Enterprise Institute, a conservative think tank. ''They're saying that the statutory sprawl that NEPA has created is not acceptable. [The shift] is something that's long overdue.''

But environmentalists are alarmed. Unlike the Endangered Species Act and the Clean Air Act, which deal only with certain environmental issues, NEPA is a comprehensive tool that activists can use to force regulators—and, by extension, industry—to abide by a multitude of environmental laws.

''NEPA is a procedural statute that cuts across every environmental program,'' says William J. Snape III, chief counsel at Defenders of Wildlife. ''So rather than announce that they're going to gut NEPA, the administration has decided that they're just going to do it on an individual-sector basis. That makes it difficult for us to piece [the administration's actions] all together.''

Most environmental assessments are completed without a hitch. But projects that compete for space with wildlife and wilderness areas—logging, energy development, and military action on federal lands or waterways, as well as transportation construction projects—often rise red flags with environmental activists and nearby residents. Lengthy lawsuits often ensue.

Bush administration officials insist that they're not out to stop all environmental analyses or to propose a wholesale rewrite of the law. According to Connaughton, the aim is to speed up the environmental-assessment process and focus on the biggest projects. The administration also wants to stem the flood of legal challenges to what government officials want to do on federal lands.

''There's just too many lawsuits, just endless litigation,'' Bush told an Oregon audience in August in introducing his forest fire plan. ''We want to make sure our citizens have the right to the courthouse. . . . But there's a fine balance between people expressing [themselves] and their opinions and using litigation to keep the United States of America from enacting commonsense forest policy.''

Since its inception, NEPA has been largely defined by court rulings that give it teeth. NEPA was passed during the Nixon administration but floundered until President Carter's Council on Environmental Quality outlined a regulatory strategy for systematically complying with its mandates. Since then, each agency has developed its own NEPA rules designed to mesh with the laws the agency implements.

Until those ground rules were established—and even since then—judges often were the government officials who determined what a NEPA requirement meant in a given situation. ''Court decisions were pouring out,'' recalls James Gustave Speth, who headed the Council on Environmental Quality under President Carter and now is dean of the Yale School of Forestry and Environmental Studies. ''It was the first major federal environmental legislation. And it became extraordinarily powerful, primarily because of the courts.''

Environmentalists, who filed many of those lawsuits, see NEPA as one of the best ways to force recalcitrant bureaucrats to weight—and disclose—the environmental consequences of their proposals.''The whole purpose of the law was to slow down the government juggernaut and to make public officials think long and hard before they take any action that could be harmful to the environment,'' notes John Echeverria, executive director of the Georgetown Environmental Policy Project. ''There's no question that environmentalists have used NEPA to block projects that they thought were ill-advised and particularly harmful.''

Conservatives and industry lobbyists, for their part, say NEPA causes delays that inflate the price tag of important business and government initiatives. The Transportation Department, for example, estimates that environmental impact statements for major highway projects take an average of four to five years to complete.

''Sometimes you feel a little bit like that small rodent in a maze, trying to complete all these reviews,'' complains Mary E. Peters, administrator of the Transportation Department's Federal Highway Administration.

But many observers insist that NEPA's foes vastly overstate the influence of NEPA reviews. ''The great bulk of NEPA projects are changed in the NEPA process, but they're not, in the end, stopped,'' says Yale's Speth.

Environmentalists are not the only cause of delay. Government regulators often lack funding to undertake NEPA reviews quickly. The petroleum group's Fuller says that some oil companies, eager to begin work on new projects, have begun paying the government agencies to complete the required environmental assessments. ''We've found that in order to get our permitting processes moving, the only way to do that is to provide private money,'' he explains. Federal officials still control the studies, he adds.

The environmental reviews are also hampered by bureaucratic resistance. Even after 32 years, some regulators still oppose having to consider the environmental implications of a project early in the planning stages, according to law professor Adler. ''At a lot of agencies, their decision-making process does not incorporate the sorts of factors that NEPA asks them to look at,'' he says. ''That's one of the reasons why agencies get into trouble with lawsuits.''

and Snowmobiles

In April, an internal review board at the Interior Department issued a scathing judgment criticizing the Bureau of Land Management for approving coal-bed methane extraction projects in Wyoming's Powder River Basin. Interior's Board of Land Appeals ruled that the environmental yardstick that regulators used to assess the projects was woefully inadequate and failed to consider the ''unique potential impacts'' of the proposed extraction process.

Coal-bed methane extraction, first tested in the 1990s, involves draining salty water from coal seams to tap the methane gas trapped in the coal. The tainted liquid often pours onto nearby lands. But the bureau had approved the methane leases based on studies that looked solely at the environmental effects of entirely different projects—oil and natural gas drilling in the region.

In a separate case, a federal judge recently suspended a seismic exploration project near

Arches National Park at the urging of two environmental groups. The organizations charge that the government failed to examine the environmental impact that the heavy pounding of 30-ton ''thumper trucks'' would have if energy companies were allowed to use them in searching for oil deposits.

Environmentalists argue that regulators are doing slap-dash environmental analyses on these and other energy projects in response to increased administration pressure to open more federal lands to mining and drilling. ''This administration is indicating that every square acre of land in the West ought to be open to oil and gas'' says Snape of Defenders of Wildlife. ''They don't care about environmental quality or the public. This is 'Energy über alles.' ''

But perhaps the most dramatic NEPA developments are occurring at the Forest Service, where Bush administration officials are rewriting the rules for managing the nation's 153 national forests. In the past, developing a forest management plan, which spells out how a forest can be used, was considered to be a ''major action'' that required extensive environmental impact analysis under NEPA. Now Bush officials are working on a proposal that would give forest supervisors greater leeway to revise forest plans without having to conduct in-depth environmental studies.

Under the revised rules, full environmental reviews would continue to be required when industry groups sought permission to begin specific projects, such as logging or construction of new recreation facilities. But more general changes to the forest management plan might not require extensive study, according to Mark Rey, the Agriculture Department under-secretary for natural resources and environment who has authority over the Forest Service. ''In the past, we were dealing with the first generation of a forest plan, and there was no question that an environmental impact statement was going to be required,'' he said. ''What we're saying now is, it is not as clear that revising plans or amending them involves a need for a similar level of analysis, depending on the circumstances.''

Rey cites the example of a forest supervisor considering changing a forest plan to allow more snowmobiles to be used in a forest. ''If we're saying that we might accommodate a greater degree of snowmobile use but that we don't have enough information right now to decide where we're going to locate the trails, then we probably would acknowledge that this issue is under consideration,'' he said. ''But we'd do an environmental impact statement when we're ready to lay out the trails.''

Logging industry officials enthusiastically support the new approach, arguing that it makes more sense for regulators to focus their NEPA resources on industry development projects than on forest management plans. ''Why would you do a full-blown analysis of how you're going to basically zone a forest and manage it, when the real rubber hits the road when you propose an action,'' said Chris West, vice president of the timber industry's American Forest Resource Council in Portland, Ore. But environmentalists say that Rey's proposals are purposely vague and confusing. They accuse him of attempting to create loopholes to allow forest supervisors to make sweeping changes in the way the forests would be used without gaining public input or examining the environmental consequences.

The Forest Service is also considering new proposals that would make it easier to approve some logging projects without having to assess the environmental impact of each project. Agency staffers are working on ''categorical exclusions'' that would pave the way for quicker approval of forest-thinning projects and logging of dead and dying trees after forest fires. Those exclusions are similar to the president's forest proposal, which would exempt some national forest lands from NEPA. Environmentalists say they'll fight those changes.

THE LONG HAND OF NEPA

Bush officials are more than happy to share their anecdotes about NEPA reviews gone haywire. They point to the case of the little town of Stillwater, Minn., 13 miles east of St. Paul, which has spent 30 years trying to build a four-lane bridge over the St. Croix River.

Bridge proponents say the new structure is needed to replace a 70-year-old lift bridge, which is on National Register of Historic Places. City officials and local developers say they hope a new bridge would divert truck traffic away from historic downtown Stillwater and increase development in communities on both sides of the bridge.

''The mayor of Stillwater told me recently that sometimes you can't see the historic town for the semis lined up to go across the bridge,'' says Peters of the Transportation Department.

But the $135 million project is opposed by environmental groups, who say the new bridge would damage wetlands and mar the bluffs that line the St. Croix River, which is a ''wild and scenic river'' protected by federal law. Environmentalists also assert that the project would accelerate urban sprawl from the Twin Cities area into western Wisconsin. Some of these concerns are shared by the National Park Service, which has jurisdiction over wild and scenic rivers.

Over the years, several environmental analyses of the proposed bridge have been completed, but no consensus about its impact has been reached. The Transportation Department is trying to break the deadlock by including the Stillwater Bridge project on its list of seven high-priority construction projects set for quick environmental review under the president's September executive order. The department plans to add more projects to its priority list in December.

Conservatives charge that the long hand of NEPA is increasingly reaching into unlikely government programs. Horner of the Competitive Enterprise Institute cites a recent lawsuit in which environmental groups and the city of Boulder, Colo., claimed that the Export-Import Bank of the United States and the Overseas Private Investment Corp. violated NEPA when they gave developing countries more than $32 billion for oil fields, pipelines, and coal-fired plants without first assessing the projects' contribution to global warming. Horner argues that as a result of the lawsuit, agencies could soon be pressured to consider global warming in their NEPA reviews. ''You're talking about a tremendous new regulatory burden, which is going to cost you more time and money,'' he says.

Industry lobbyists see such delays and expanded use of NEPA as reason to dramatically scale back the environmental impact assessment process or eliminate it altogether. One industry group boldly suggested amending the law to bar national environmental groups from filing NEPA lawsuits.

In recent comments to the White House task force on NEPA, the Idaho Cattle Association recommended that NEPA lawsuits be limited to ''individuals who have an economic stake in the outcome of a NEPA decision or those who are directly affected'' by the project being reviewed. Connaughton of the Council on Environmental Quality says he disagrees with that proposal but understands the frustration of industry groups. ''The procedural requirements of the law should not be deployed to wreak havoc,'' he argues.

But what the White House and industry see as abuse of the system, environmental activists see as their fundamental right to ensure that taxpayer dollars are not spent on projects that harm the air, water, wildlife, or wilderness. NEPA supporters say they fear that the environmental goals that NEPA was created to advance could be lost in the rush to speed up or eliminate environmental assessments and to restrict the public's ability to challenge their conclusions. As the Wilderness Society's Alberswerth puts it, ''If you don't have judicial review, you have no guarantee that the [Bureau of Land Management] or any other agency will comply with the laws.''

A TIME AND A PLAN TO TEACH PEACE AND DISARMAMENT IN OUR SCHOOLS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 2002

Mr. GEORGE MILLER of California. Mr. Speaker, I am delighted to bring to my colleagues' attention, and to the attention of their constituents who may wish to get involved in peace education, the recently released United Nations Study on Disarmament and Non-Proliferation Education.

The study is the result of successful collaboration between the Hague Appeal for Peace—a citizen's organization dedicated to reducing wars and armed conflict and promoting reconciliation and economic development—the Government of Mexico and the United Nations Department for Disarmament Affairs.

By working together—governments, civil society and the United Nations—the effort to sustain peace through education stands a greater chance of success.

Humankind's genius invented technological wonders in the last century that have made life more livable and longer for many. It also produced, and then governments used, the atomic bomb, and then perfected it to incomprehensible destructive capacity. We are discovering new pieces of information from direct participants about how close we came to a global nuclear exchange during the Cuban Missile crisis 40 years ago. And we are confronted with a new awareness of dangers that might arise with the use of weapons of mass destruction for terrorism.

Education alone is not a security blanket. It is not a guarantee for progressive thinking. Indeed, we have learned that young people being educated in some religious schools in the Middle East were being indoctrinated with hatred for the West and the United States.

However, in a democratic society, education is a tool for enlightenment. As H.G. Wells said in his 1921 work, The Outline of History, ''Human history becomes more and more a race between education and catastrophe.'' We would do well to heed his warning.

Fortunately, the complacency and lack of interest in questions of disarmament and nonproliferation, especially about extant nuclear dangers and solutions, is starting slowly to break down. During talk of war and inspections of weapons of mass destruction, we find ourselves in a teachable moment.

Mr. Speaker, we are at a time in history when it is critical to embrace the idea that peace, dialogue, and disarmament can and

should be taught in school and that it should be taught as an integral part of school curricula and programs in the United States and across the world. And there has emerged a plan to help educators learn how to teach peace.

A ten-country United Nations group of experts issued a study in October on the status of disarmament and non-proliferation education efforts world-wide, making a set of 34 recommendations to Governments, the UN, other international organizations, and civil society on how to improve peace and disarmament education as a means of fostering tolerance and a culture of non-violence.

It calls for a joint effort to revitalize disarmament education to empower young people through knowledge to help make the world a more peaceful place. Surely this is an idea that all of us in Congress, regardless of party or political persuasion, can support.

The Study is available on the United Nations Web site at http://disarmament.un.org/education/index.html, and I commend it to my colleagues for further reading. I am also enclosing several additional documents for the RECORD about the project for the benefit of my colleagues and their constituents.

Mr. Speaker, I appreciate the opportunity to share this information with my colleagues and I also appreciate the hard work that the Hague Appeal for Peace, the United Nations, and the Government of Mexico put into this exciting and important peace education project.

[From the Report of the Secretary-General, Aug. 30, 2002]

SECTION VIII. PROMOTION OF DISARMAMENT AND NON-PROLIFERATION EDUCATION AND TRAINING: PRACTICAL RECOMMENDATIONS

All the following recommendations are important. They vary, however, in the resources required for their implementation, the pace with which they can be put in place and the amount of time needed before they yield significant results. Those recommendations with asterisks represent steps that can and should be taken rapidly and at a relatively low cost.

*1. Member States are encouraged to accord importance to disarmament and non-proliferation education and training in their programmes and policies, consistent with their national legislation and practices, taking into account present and future trends. They are also encouraged to use, designate or establish public advisory bodies, where appropriate, whose responsibilities include advising on disarmament and non-proliferation education and training practices. Member States are encouraged to share their experience in disarmament and non-proliferation education and training with other Member States, international organizations, civil society and the Department for Disarmament Affairs.

*2. Relevant United Nations offices and other international organizations and agencies should prepare, adapt and disseminate a wider range of user-friendly educational material on disarmament and non-proliferation. The current experience in this field should be tapped and existing educational material, including educational modules, resource books, guide and online programmes, should be tailored to the needs of individual countries, specific audiences or the international community at large.

*3. The United Nations and other international organizations should translate its disarmament and publications into all United Nations official languages and, when possible, into other languages for additional dissemination. Upon request by the United Nations or relevant international organizations, Member States, academic and research institutions and NGOs are encouraged to support or assist in translating relevant materials.

4. The United Nations and other international organizations should increase their capacities to disseminate disarmament and non-proliferation education-related materials (print and audio-visual) more widely to all regions of the world. While strengthening existing distribution channels, they should explore new ones, such as cooperation with educational networks, teachers unions and curriculum committees as well as electrical access. Member States, local academic institutions, research centres and NGOs are also encouraged to assist in dissemination efforts. As it is essential to reach the local community level, channels of dissemination such as school libraries, gathering places, radio and television are highly recommended.

5. The Department of Disarmament Affairs should gather information about the involvement of regional and intergovernmental organizations in disarmament and non-proliferation education, training and data collection activities. The Department should examine ways to foster an exchange of experiences and regional perspectives to facilitate the development of disarmament and non-proliferation education programmes.

6. The Department of Disarmament Affairs should examine, accumulate and make public and easily accessible the different disarmament and non-proliferation curricula and programmes that States have developed for their formal school systems and university courses as well as for informal training.

7. UNU and UPEACE are encouraged to develop intensive postgraduate and other courses on disarmament and non-proliferation for representatives of all regions of the world, including government officials, legislators, military officers, NGOs, the media and students, working in cooperation with academic and non-governmental institutions that have expertise in designing and implementing such courses. UPEACE, in coordination with the Department of Disarmament Affairs, may wish to host seminars and workshops as well as to develop model university and school material.

8. Member States are encouraged to include parliamentarians and/or non-governmental advisers in delegations to United Nations disarmament-related meetings, taking into account national legislation and practices.

9. The Department of Disarmament Affairs and its regional centres, in cooperation with UNIDIR, UNU and UPEACE, are encouraged to establish a virtual library of reports of ''lessons learned'' on disarmament-related aspects of peace operations and make it available to both Governments and NGOs on a disarmament and non-proliferation online education resource site (see recommendations 25).

10. Municipal leaders, working with citizen groups, are encouraged to establish peace cities, as part of the UNESCO Cities for Peace network, through, for example, the creation of peace museums, peace parks, web sites and the production of booklets on peacemakers and peacemaking.

11. UNU and UPEACE are encouraged to provide assistance to those city councils and prefectures that are willing to host seminars on disarmament and non-proliferation issues for the media, academics, local and national politicians, trade union representatives, religious leaders and the wider public.

12. Religious leaders and institutions are encouraged to develop educational material promoting a culture of peace and disarmament.

*13. Member States, in cooperation with the United Nations and relevant international organizations, are encouraged to sponsor training, fellowships, and awareness programmes, on as wide a geographical basis as possible, for researchers, engineers, scientists and other academics in areas of particular relevance, but not limited to treaties and agreements on weapons of mass destruction and their means of delivery. They are also encouraged to give special emphasis to training customs, licensing and law enforcement officers for the purpose of fulfilling international obligations of Member States in the disarmament and non-proliferation fields.

*14. The Department of Disarmament Affairs, in cooperation with UNU and UPEACE, should be encouraged to organize a programme of training for educators and trainers in disarmament and non-proliferation. These programmes may be implemented cooperatively with international organizations such as IAEA, OPCW and the Preparatory Commission for the Comprehensive Nuclear-Test Ban Treaty Organization.

15. The Department of Disarmament Affairs, in cooperation with UNESCO, UPEACE, UNIDIR and NGOs, should produce and maintain an updated international bibliography of reference literature for teachers, including an updated directory of peace studies programmes and disarmament and non-proliferation research centres, and make this available on a disarmament and non-proliferation online education resource site (see recommendation 25).

16. UNESCO IBE is encouraged to convene regional meetings with ministers of education, educational administrators and university presidents to discuss the issues involved in developing disarmament and non-proliferation education for primary, secondary and university students. The International Conference on Education is encouraged to devote one session of a future meeting to disarmament and non-proliferation education, for example, through a workshop on science and ethics.

*17. The United Nations, relevant international organizations, Member States, NGOs and research institutes should develop and strengthen programmes, workshops, fellowships and materials or disarmament and non-proliferation topics for journalists and media representatives in order to enhance their knowledge of these issues. Special attention should be paid to the development of programmes and materials designed for local media in post-conflict situations, as essential partners in the disarmament and non-proliferation education process.

18. Disarmament and non-proliferation educational materials developed by the United Nations, such as the Cyberschoolbus web site, should include complementary material on how parents can encourage attitudes of peace and non-violence. Efforts should also be made by educators, parents and the business community to devise and produce toys, computer games and videos that engender such attitudes.

19. Additional fellowships and scholarships should be provided for various target audiences by or through the Department of Disarmament Affairs (directly or through its regional centres), UPEACE, UNIDIR and the NGO Committee on Disarmament, among others. An important educational supplement to disarmament and non-proliferation classroom training should be on-the-job training, which may be conducted at the sites of international organizations, national governmental agencies, NGOs and research centres. Opportunities for such on-the-job training should be expanded.

*20. The United Nations, relevant international organizations, Member States, and

corporate and private donors are encouraged to provide assistance, including funds, educational material and equipment to NGOs in different regions of the world and to universities to establish or expand their disarmament and non-proliferation libraries with free and open public access to their resources. Member States should be encouraged to fund research institutes that focus on disarmament and non-proliferation and offer scholarships for advanced university students to carry out research on disarmament and non-proliferation and its pedagogy. The United Nations should make greater efforts to tap the financial resources of private enterprises in the fields of information and communications technology.

AMERICAN WILDLIFE ENHANCEMENT ACT OF 2001

SPEECH OF

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. OTTER. Mr. Speaker, Early on the morning of November 15, 2002 the House of Representatives passed, by unanimous consent, S. 990, the American Wildlife Enhancement Act. This bill, which amends the Pittman-Robertson Wildlife Restoration Act, is purported to improve the provisions relating to wildlife conservation and restoration programs. Had I been present when the House considered this legislation, I would have opposed the bill. I am concerned that as written this bill could undermine private property rights and impact state water rights. I am concerned that no hearings were held in the House and we never had time to consider the full implications of the bill. I am hopeful the bill does not make it to the President's desk this year. If this legislation is introduced next Congress, I will work with my colleagues to ensure the protection of private property and water rights.

HOMELAND SECURITY ACT OF 2002

SPEECH OF

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2001

Mr. STUPAK. Mr. Speaker, I reluctantly voted for H.R. 5005, the Homeland Security Act of 2002.

I say reluctantly because I have very strong objections to certain provisions contained in the bill which favor ''special interests.''

In particular, I am opposed to provisions in the bill that would protect pharmaceutical firms and other corporations from lawsuits. Gut our efforts to crack down on companies that move abroad to escape U.S. taxes. Provide protection against lawsuits for companies that have provided passenger and baggage screening in airports. Give the new homeland security secretary broad authority to protect companies that sell anti-terrorism technologies.

These provisions were inserted without consulting any Democratic leaders, and put in the bill literally in the middle of the night!

Mr. Speaker, I have a long and well-known record of fighting against provisions such as these.

These provisions were not in the original bill we passed earlier this year and I cannot understand why the Republican Caucus felt it necessary to include them in the most significant reorganization of the federal government in fifty years!

These provisions harm the average American by curtailing their legal rights to seek justice from corporations. Haven't we seen the dangers of allowing big business to operate this way?

The Senate was right in drawing national attention to this sham.

I am hopeful the Republican leadership will live up to its promise to remove these provisions early next Congress, but I fear they are already backing off their promise to do so.

Mr. Speaker, we desperately need a Department of Homeland Security, and that is why I voted for the bill. However, we do not need more give aways for corporate special interests, and I urge my GOP colleagues to move with great speed to remove the provisions early next session.

CONFERENCE REPORT ON H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2002

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2001

Ms. McCOLLUM. Mr. Speaker, I rise today in opposition to the Conference Report for the ''Bankruptcy Reform'' bill, H.R. 333. This legislation will impose new restrictions to prevent working families facing financial misfortune from getting back on track. It also does nothing to stop the irresponsible and predatory practices of some businesses and credit card companies. I support efforts to prevent abuse of our bankruptcy system as a financial tool but this legislation goes too far in cutting off avenues to relief for working families who face unmanageable debt.

Central to this legislation is a new, inflexible ''means test'' that will be imposed on every individual filing for bankruptcy. While judges currently have the ability to determine the appropriate relief for consumers, this new ''means test'' will eliminate that flexibility and prevent all but the most impoverished families from filing for bankruptcy under Chapter 7. The implementation of this ''means test'' will also be a costly mandate on our bankruptcy court system, which is already operating on rudimentary funding.

I have listened to concerns of bankruptcy judges in my state of Minnesota who fundamentally oppose this legislation because of the disastrous effect it will have on working families facing financial crises. These judges echoed facts that are widely known—that the vast majority of individuals who file for bankruptcy are low- and moderate-income citizens facing crisis situations such as the loss of a job, medical emergencies or divorce. The actual number of individuals who try to ''game the system'' and escape debts by filing for bankruptcy is very low. According to one bankruptcy judge, abusive filings constitute only about 2–3 percent of all cases and bankruptcy courts are currently able to block about 95 percent of those ''bad faith'' filings by converting or dismissing certain cases.

This legislation would also have a negative impact on the availability of quality, affordable representation for families filing for bankruptcy. Provisions of this legislation would impose new liability standards on bankruptcy attorneys, making them responsible for the accuracy of all information given to them by their clients when filing a bankruptcy petition. Many attorneys will be apprehensive to continue representing clients in bankruptcy cases knowing that they may be sanctioned for inaccurate information. Bankruptcy lawyers in Minnesota have told me that this will severely decrease the number of attorneys willing to provide *pro bono* services, limiting the ability of low-income individuals to obtain quality legal representation.

I agree that something must be done to curb the number of personal bankruptcies that strain our banks, credit unions and responsible financial institutions. But we must be equitable in asking everyone—borrowers and lenders alike—to practice good financial planning. This unbalanced legislation unfairly targets consumers and allows irresponsible companies to continue extending credit to college students and others who are already deep in debt or have had a past history of bad credit. For the working families of Minnesota and the nation, I cannot support this legislation.

CONFERENCE REPORT ON S. 1214, MARITIME TRANSPORTATION SECURITY ACT OF 2002

SPEECH OF

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. YOUNG of Alaska. Mr. Speaker, I rise to speak about the Conference Report on S. 1214, which the House approved last week and is now ready for signature by the President. I would like to point out a particular concern that is addressed in Section 445 of the conference agreement. Section 445 addresses the current problem, and the potential for greater future problems, of local jurisdictions seeking to impose taxes and fees on vessels merely transiting or making innocent passage through navigable waters subject to the authority of the United States that are adjacent to the taxing community. We are seeing instances in which local communities are seeking to impose taxes or fees on vessels even where the vessel is not calling on, or landing, in the local community. These are cases where no passengers are disembarking, in the case of passenger vessels, or no cargo is being unloaded in the case of cargo vessels and where the vessels are not stopping for the purpose of receiving any other service offered by the port. In most instances, these types of taxes would not be allowed under the Commerce Clause of the United States Constitution. Unfortunately, without a statutory clarification, the only means to determine whether the burden is an impermissible burden under the Constitution is to pursue years of litigation.

Section 445 of the Conference Report addresses this problem by clarifying the sole circumstances when a local jurisdiction may impose a tax or fee on vessels. Local governments, and other non-Federal interests, may

impose taxes or fees only under an existing exception under the Water Resources Development Act or under extremely limited circumstances in which reasonable fees can be charged on a fair and equitable basis for the cost of service actually rendered to the vessel. The fees must also enhance the safety and efficiency of interstate and foreign commerce and represent at most a ''small burden'' on interstate and foreign commerce. Generally, taxes will not be allowed under this section. The sole exceptions are stated in Section 445.

Mr. President, I support Section 445 as an important correction of a silence in current law that should not be allowed to imperil legitimate commerce.

E-GOVERNMENT ACT OF 2001

SPEECH OF

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. HORN. Mr. Speaker, title V of H.R. 2458 incorporates the text of another bill that was recently reported out of the Government Reform Committee: H.R. 5212, the ''Confidential Information Protection and Statistical Efficiency Act of 2002.'' I wish to thank the gentleman from Texas, Mr. TURNER, and the gentleman from Virginia, Mr. DAVIS, for including the Confidential Information Protection and Statistical Efficiency Act of 2002 in their bill.

On July 25, 2002, I introduced the Confidential Information Protection and Statistical Efficiency Act of 2002 on behalf of myself, as well as the gentleman from Ohio, Mr. SAWYER, and the gentlewoman from New York, Mrs. MALONEY. The Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, which I chair, held a hearing on the bill on September 17. All witnesses—representing the statistical agencies, the Administration and the private sector-testified in favor of the bill. On the same day, the subcommittee approved the bill by voice vote.

On October 9, the full Committee on Government Reform approved the bill by voice vote and ordered it favorably reported. I want to briefly summarize this important legislation. The committee report on H.R. 5215 explains the Confidential Information Protection and Statistical Efficiency Act of 2002 in much greater detail.

Enactment of the Confidential Information Protection and Statistical Efficiency Act of 2002 will greatly improve the efficiency and quality of Federal statistical activities. Right now, there is much duplication of effort among the Federal Government's three principal statistical agencies—the Bureau of the Census, the Bureau of Labor Statistics and the Bureau of Economic Analysis. Because of their inability to share data, they often collect the same data separately. This wastes taxpayer dollars and imposes unnecessary burdens on those who supply the data.

Furthermore, the inability of the agencies to compare the data they collect results in major disparities in the reports they issue. For example, during the last economic census in 1997, the Bureau of Labor Statistics reported payroll data in the information technology sector that was 13 percent higher than the data reported by the Census Bureau. In addition, there was a 14 percent disparity in the payroll data reported by these two agencies for the motor freight, transportation and warehousing industries.

This legislation will allow the Census Bureau, the Bureau of Economic Analysis and the Bureau of Labor Statistics to share business data they collect for statistical purposes. This data sharing will substantially enhance the accuracy of economic statistics by resolving serious reporting inconsistencies such as those that I just mentioned. It will also reduce reporting burdens on the businesses that must now supply data separately to the individual agencies. I want to emphasize that the data sharing applies only to these three agencies, and it only applies to business data—not personal data.

Of equal importance, the bill ensures that the confidential data that citizens and businesses provide to federal agencies for statistical purposes are subject to uniform and rigorous statutory protections against unauthorized use. Currently, confidentiality protections vary among agencies and are often not based in law. The bill would provide uniformly high confidentiality standards that federal statistical agencies must follow. This part of the bill applies to all federal statistical agencies—not just the Census Bureau, Bureau of Labor Statistics and Bureau of Economic Analysis. Furthermore, it covers all data that all statistical agencies collect on a confidential basis—both business and personal data.

Finally, the bill includes language that will enhance the usefulness of statistical data for congressional decision-making. This language encourages the statistical agencies to provide the Congressional Budget Office with access to statistical data in order to help CBO analyze pension and health care financing issues. However, the bill does not expand CBO's current legal rights of access to statistical data. Thus, it does not permit disclosure of information to CBO in a manner of form that would constitute a violation of existing law.

Mr. Speaker, this worthy legislation has been years in the making. I sponsored a similar bill in 1999, but it encountered last minute concerns and was not enacted. The current bill resolves those concerns as well as all other issues that have been raised. The Administration strongly supports it, as do many individuals and organizations in industry and academic circles. I am delighted that the bill finally will be enacted this year.

Daily Digest

HIGHLIGHTS

The House agreed to the Senate amendment to H.R. 5005, to establish the Department of Homeland Security—clearing the measure for the President.

The House agreed to S. Con. Res. 160, and stands adjourned sine die.

Senate

Chamber Action

The Senate was not in session today. It will next meet on Tuesday, January 7, 2003 for the convening of the First Session of the 108th Congress.

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

Measures Introduced: 5 public bills, H.R. 5763–5767; and 1 resolution; H. Con. Res. 521, were introduced. **Page H9128**

Reports Filed: Reports were filed today as follows:

H.R. 4187, to amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records, amended (H. Rept. 107–790). **Page H9128**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Thornberry to act as Speaker pro tempore for today. **Page H9037**

Speaker Pro Tempore to Sign Enrolled Bills and Joint Resolutions: Read a letter from the Speaker wherein he appointed Representative Armey to act as Speaker pro tempore to sign enrolled bills and joint resolutions on this day. **Page H9038**

Benjamin Franklin Tercentenary Commission: The Chair announced the Speaker's appointment of Representatives Castle of Delaware and Mrs. Elise DuPont of Rockland, Delaware to the Benjamin Franklin Tercentenary Commission. **Page H9038**

Presidential Messages: Read the following messages from the President:

State of Small Business Annual Report: Message wherein he transmitted the annual report on the State of Small Business at the end of the 20th century—referred to the Committee on Small Business; and **Page H9040**

Railroad Retirement Board Annual Report: Message wherein he transmitted the annual report of the Railroad Retirement Board—referred to the Committees on Transportation and Infrastructure and Ways and Means. **Page H9040**

Department of Homeland Security: The House agreed to the Senate amendment to H.R. 5005, to establish the Department of Homeland Security—clearing the measure for the President. **Pages H9040–H9114**

Adjournment Resolution: The House agreed to S. Con. Res. 160, providing for the sine die adjournment of the One Hundred Seventh Congress, Second Session. **Pages H9115–16**

Senate Messages: Message received from the Senate today appears on page H9038.

Referrals: S. 12 to the Committee on International Relations; S. 13 to the Committee on Financial Services, S. 14 and S. 2063 to the Committee on Agriculture, S. 198, S. 2556, S. 2577, and S. Con. Res. 159 were held at the desk; S. 606 and S. 2872 to the Committee on Energy and Commerce; S. 1340, S. 1816, S. 2222, and S. 2711 to the Committee on Resources, S. 2670 to the Committees on Resources and Agriculture; and S. 3079 to the Committee on the Judiciary. **Pages H9125–26**

Quorum Calls—Votes: No quorum calls or recorded votes developed during the proceedings of the House today.

Adjournment Sine Die: The House met at 11 a.m. and in accordance with the provisions of S. Con. Res. 160, and S.J. Res. 53, the House adjourned sine die at 2:23 p.m. until 12 noon on Tuesday, January 7, 2003 for the Convening of the First Session of the 108th Congress.

Committee Meetings

FEDERAL PRISON INDUSTRIES—UNFAIR COMPETITION WITH SMALL BUSINESSES

Committee on Small Business: On November 21, the Committee held a hearing on Federal Prison Industries' Unfair Competition with Small Businesses: Potential Interim Administrative Solutions, with discussion of H.R. 1577, Federal Prison Industries Competition in Contracting Act of 2002. Testimony was heard from Angela B. Styles, Administrator, Office of Federal Procurement Policy, OMB; Kenneth R. Rocks, Chairman, Board of Directors, Federal Prison Industries, Inc.; and public witnesses.

Next Meeting of the SENATE

12 noon, Tuesday, January 7, 2003

Senate Chamber

Program for Tuesday: Senate will convene the first session of the 108th Congress.

Next Meeting of the HOUSE OF REPRESENTATIVES

12 noon, Tuesday, January 7, 2003

House Chamber

Program for Tuesday: Convening of the 108th Congress.

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