

SA 4829. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4830. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4831. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4832. Mr. JEFFORDS (for himself, Mr. SMITH, of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4833. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4834. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4835. Mr. DEWINE (for himself, Mr. BINGAMAN, Mr. DORGAN, Mr. DOMENICI, Mr. THURMOND, Ms. CANTWELL, Mr. HELMS, Mr. ALLARD, Mr. LIEBERMAN, Mr. CARPER, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4836. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. CARPER, and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4837. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill H.R. 4085, To amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans, to expand certain benefits for veterans and their survivors, and for other purposes.

SA 4838. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 2237, to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.

TEXT OF AMENDMENTS

SA 4753. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 173. FIRST RESPONDER PERSONNEL COSTS.

Local governments receiving Federal homeland security funding under this Act,

whether directly or as a pass-through from the States, may use up to 20 percent of Federal funds received for first time responder personnel costs, including overtime costs.

SA 4754. Mr. JEFFORDS (for himself, and Mr. SMITH of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

Subtitle G—First Responder Terrorism Preparedness

SEC. 199A. SHORT TITLE.

This subtitle may be cited as the “First Responder Terrorism Preparedness Act of 2002”.

SEC. 199B. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

SEC. 199C. DEFINITIONS.

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting “incident of terrorism,” after “drought,”.

(b) WEAPON OF MASS DESTRUCTION.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

“(11) WEAPON OF MASS DESTRUCTION.—The term ‘weapon of mass destruction’ has the meaning given the term in section 2302 of title 50, United States Code.”.

SEC. 199D. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

“SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

“(a) IN GENERAL.—There is established in the Federal Emergency Management Agency an office to be known as the ‘Office of National Preparedness’ (referred to in this section as the ‘Office’).

“(b) APPOINTMENT OF ASSOCIATE DIRECTOR.—

“(1) IN GENERAL.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) COMPENSATION.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(c) DUTIES.—The Office shall—

“(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government;

“(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

“(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

“(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

“(5) establish standards for a national, interoperable emergency communications and warning system;

“(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

“(7) carry out such other related activities as are approved by the Director.

“(d) DESIGNATION OF REGIONAL CONTACTS.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

“(e) USE OF EXISTING RESOURCES.—In carrying out this section, the Associate Director shall—

“(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

“(2) consult with and use—

“(A) existing Federal interagency boards and committees;

“(B) existing government agencies; and

“(C) nongovernmental organizations.”.

SEC. 199E. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

“SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

“(a) DEFINITIONS.—In this section:

“(1) FIRST RESPONDER.—The term ‘first responder’ means—

“(A) fire, emergency medical service, and law enforcement personnel; and

“(B) such other personnel as are identified by the Director.

“(2) LOCAL ENTITY.—The term ‘local entity’ has the meaning given the term by regulation promulgated by the Director.

“(3) PROGRAM.—The term ‘program’ means the program established under subsection (b).

“(b) PROGRAM TO PROVIDE ASSISTANCE.—

“(1) IN GENERAL.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

“(2) FEDERAL SHARE.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

“(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

“(A) grants; and

“(B) such other forms of assistance as the Director determines to be appropriate.

“(c) USES OF ASSISTANCE.—Assistance provided under subsection (b)—

“(1) shall be used—

“(A) to purchase, to the maximum extent practicable, interoperable equipment that is

necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

“(B) to train first responders, consistent with guidelines and standards developed by the Director;

“(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

“(D) to develop, construct, or upgrade emergency operating centers;

“(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

“(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

“(G) to conduct exercises; and

“(H) to carry out such other related activities as are approved by the Director; and

“(2) shall not be used to provide compensation to first responders (including payment for overtime).

“(d) ALLOCATION OF FUNDS.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

“(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, \$3,000,000; and

“(2) to each State (other than a State specified in paragraph (1))—

“(A) a base amount of \$15,000,000; and

“(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

“(i) population;

“(ii) location of vital infrastructure, including—

“(I) military installations;

“(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

“(III) nuclear power plants;

“(IV) chemical plants; and

“(V) national landmarks; and

“(iii) proximity to international borders.

“(e) PROVISION OF FUNDS TO LOCAL GOVERNMENTS AND LOCAL ENTITIES.—

“(1) IN GENERAL.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

“(2) ALLOCATION OF FUNDS.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

“(3) DEADLINE FOR PROVISION OF FUNDS.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

“(4) COORDINATION.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

“(f) ADMINISTRATIVE EXPENSES.—

“(1) DIRECTOR.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

“(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

“(B)(i) for fiscal year 2003, \$75,000,000; and

“(ii) for each of fiscal years 2004 through 2006, \$50,000,000.

“(2) RECIPIENTS OF ASSISTANCE.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

“(g) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

“(h) REPORTS.—

“(1) ANNUAL REPORT TO THE DIRECTOR.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

“(2) EXERCISE AND REPORT TO CONGRESS.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

“(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

“(B) submit a report on the results of the exercise to—

“(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

“(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

“(i) COORDINATION.—

“(1) WITH FEDERAL AGENCIES.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

“(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360));

“(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

“(C) other appropriate Federal agencies.

“(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

“(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

“(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.”

(b) COST SHARING FOR EMERGENCY OPERATING CENTERS.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting “(other than section 630)” after “carry out this title”; and

(2) by inserting “(other than section 630)” after “under this title”.

SEC. 199F. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199E(a)) is amended by adding at the end the following:

“SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

“(a) DEFINITIONS.—In this section:

“(1) FIRST RESPONDER.—The term ‘first responder’ has the meaning given the term in section 630(a).

“(2) HARMFUL SUBSTANCE.—The term ‘harmful substance’ means a substance that the President determines may be harmful to human health.

“(3) PROGRAM.—The term ‘program’ means a program described in subsection (b)(1).

“(b) PROGRAM.—

“(1) IN GENERAL.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

“(2) ACTIVITIES.—A program shall include—

“(A) collection and analysis of environmental and exposure data;

“(B) development and dissemination of educational materials;

“(C) provision of information on releases of a harmful substance;

“(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

“(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

“(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

“(3) PARTICIPATION IN REGISTRIES AND STUDIES.—

“(A) IN GENERAL.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

“(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

“(4) COOPERATIVE AGREEMENTS.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

“(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

“(B) experienced in the area of environmental or occupational health and safety, including experience in—

“(i) conducting long-term epidemiological studies;

“(ii) conducting long-term mental health studies; and

“(iii) establishing and maintaining environmental exposure or disease registries.

“(c) REPORTS AND RESPONSES TO STUDIES.—

“(1) REPORTS.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4),

shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

“(2) CHANGES IN PROCEDURES.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).”.

SEC. 199G. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199F) is amended by adding at the end the following:

“SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

“(a) DEFINITIONS.—In this section:

“(1) URBAN SEARCH AND RESCUE EQUIPMENT.—The term ‘urban search and rescue equipment’ means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

“(2) URBAN SEARCH AND RESCUE TASK FORCE.—The term ‘urban search and rescue task force’ means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

“(b) ASSISTANCE.—

“(1) MANDATORY GRANTS FOR COSTS OF OPERATIONS.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than \$1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

“(2) DISCRETIONARY GRANTS.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

“(A) operations in excess of the funds provided under paragraph (1);

“(B) urban search and rescue equipment;

“(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

“(D) training, including training for operating in an environment described in subparagraph (C);

“(E) transportation;

“(F) expansion of the urban search and rescue task force; and

“(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

“(3) PRIORITY FOR FUNDING.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

“(c) GRANT REQUIREMENTS.—The Director shall establish such requirements as are necessary to provide grants under this section.

“(d) ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.—

“(1) IN GENERAL.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

“(2) REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task

force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.”.

SEC. 199H. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—“(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

“(2) PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.—There are authorized to be appropriated to carry out section 630—

“(A) \$3,340,000,000 for fiscal year 2003; and

“(B) \$3,458,000,000 for each of fiscal years 2004 through 2006.

“(3) URBAN SEARCH AND RESCUE TASK FORCES.—

“(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

“(i) \$160,000,000 for fiscal year 2003; and

“(ii) \$42,000,000 for each of fiscal years 2004 through 2006.

“(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.”.

SA 4755. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to be lie on the table; as follows:

On page 68, strike lines 14 through 23 and insert the following:

SEC. 134. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) HOMELAND SECURITY DUTIES.—

(1) IN GENERAL.—The Federal Emergency Management Agency shall be responsible for the emergency preparedness and response functions of the Department.

(2) FUNCTION.—Except as provided in paragraph (3) and subsections (b) through (e), nothing in this Act affects the administration or administrative jurisdiction of the Federal Emergency Management Agency as in existence on the day before the date of enactment of this Act.

(3) DIRECTOR.—In carrying out responsibilities of the Federal Emergency Management Agency under all applicable law, the Director of the Federal Emergency Management Agency shall report—

(A) to the President directly, with respect to all matters relating to a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) to the Secretary, with respect to all other matters.

On page 69, strike lines 1 through 7 and insert the following:

(b) SPECIFIC RESPONSIBILITIES.—The Director of the Federal Emergency Management Agency shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities of the Department.

SA 4756. Mr. JEFFORDS (for himself, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr.

LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to be lie on the table; as follows:

On page 11, line 8, strike “terrorism, natural disasters,” and insert “terrorism”.

On page 11, strike lines 6 through 13 and insert the following:

homeland threats within the United States; and

(C) reduce the vulnerability of the United States to terrorism and other homeland threats.

On page 12, line 23, strike “emergency preparedness and response.”.

On page 13, strike lines 3 through 5 and insert the following:

transportation security and critical infrastructure protection.

On page 15, line 14, insert “and the Director of the Federal Emergency Management Agency” after “Defense”.

On page 16, strike lines 13 through 16.

On page 16, line 17, strike “(15)” and insert “(14)”.

On page 16, line 20, strike “(16)” and insert “(15)”.

On page 16, line 24, strike “(17)” and insert “(16)”.

On page 17, line 4, strike “(18)” and insert “(17)”.

On page 17, line 8, strike “(19)” and insert “(18)”.

Beginning on page 68, strike line 14 and all that follows through page 75, line 3.

On page 75, line 3, strike “135” and insert 134”.

On page 103, line 13, strike “136” and insert 135”.

On page 103, line 17, strike “137” and insert 136”.

On page 109, line 10, strike “of the Department”.

On page 112, line 5, strike “138” and insert 137”.

On page 112, line 10, strike “139” and insert 138”.

On page 112, between lines 4 and 5, insert the following:

(f) COORDINATION WITH FEDERAL EMERGENCY MANAGEMENT AGENCY.—

(1) IN GENERAL.—In carrying out all responsibilities of the Secretary under this section, the Secretary shall coordinate with the Director of the Federal Emergency Management Agency.

(2) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting “incident of terrorism,” after “drought,”.

On page 114, line 6, strike “140” and insert 139”.

On page 114, strike lines 13 and 14.

On page 115, line 3, strike “in the Department” and insert “within the Federal Emergency Management Agency”.

On page 116, line 21, strike “Department” and insert “Federal Emergency Management Agency”.

Beginning on page 128, strike line 22 and all that follows through page 129, line 5, and insert the following:

(a) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this section.

(b) PUBLIC HEALTH EMERGENCY.—During the

On page 129, strike lines 15 and 16 and insert the following:

(c) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving,

On page 186, line 25, and page 187, line 1, strike “emergency preparation and response.”.

On page 187, insert “emergency preparedness and response,” after “assets.”

Beginning on page 161, strike line 19 and all that follows through page 162, line 2, and insert the following:

(b) BIENNIAL REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report assessing the resources and requirements of executive agencies relating to border security.

SA 4757. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4438 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to be lie on the table; as follows:

On page 156, between lines 11 and 12, insert the following:

Subtitle H—Identity Theft

SEC. 771. SHORT TITLE.

This subtitle may be cited as the “Identity Theft Victims Assistance Act of 2002”.

SEC. 772. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) IN GENERAL.—Chapter 47 title 18, United States Code, is amended by adding after section 1028 the following:

“§ 1028A. Treatment of identity theft mitigation

“(a) DEFINITIONS.—As used in this section—

“(1) the term ‘business entity’ means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), telecommunications, utilities, or other service provider;

“(2) the term ‘consumer’ means an individual;

“(3) the term ‘financial information’ means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

“(A) account numbers and balances;

“(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

“(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

“(4) the term ‘financial information repository’ means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person;

“(5) the term ‘identity theft’ means an actual or potential violation of section 1028 or any other similar provision of Federal or State law;

“(6) the term ‘means of identification’ has the same meaning given the term in section 1028; and

“(7) the term ‘victim’ means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

“(b) INFORMATION AVAILABLE TO VICTIMS.—

“(1) IN GENERAL.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a commercial transaction, provided credit, provided, for consideration, products, goods, or services, accepted payment, or otherwise done business for consideration with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), and in compliance with subsection (d), provide, without charge, a copy of all application and business transaction information related to the transaction being alleged as an identity theft to—

“(A) the victim;

“(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim; or

“(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

“(2) RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—No provision of Federal or State law prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this section.

“(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law.

“(C) VERIFICATION OF IDENTITY AND CLAIM.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business entity—

“(1) as proof of positive identification, at the election of the business entity—

“(A) the presentation of a government-issued identification card;

“(B) if providing proof by mail, a copy of a government-issued identification card;

“(C) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

“(D) personally identifying information that the business entity typically requests from new applicants or for new transactions at the time of the victim’s request for information; and

“(2) as proof of a claim of identity theft, at the election of the business entity—

“(A) a copy of a police report evidencing the claim of the victim of identity theft;

“(B) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

“(C) any affidavit of fact that is acceptable to the business entity for that purpose.

“(d) VERIFICATION STANDARD.—Prior to releasing records pursuant to subsection (b), a business entity shall take reasonable steps to verify the identity of the victim requesting such records.

“(e) LIMITATION ON LIABILITY.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other business entities, law enforcement authorities, victims, or any person alleging to be a victim, if—

“(1) the business entity complies with subsection (c); and

“(2) such disclosure was made—

“(A) for the purpose of detection, investigation, or prosecution of identity theft; or

“(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

“(f) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

“(1) this section does not require disclosure of the information;

“(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information; or

“(3) the information requested is Internet navigational data or similar information about a person’s visit to a website or online service.

“(g) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this section creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

“(h) ENFORCEMENT.—

“(1) CIVIL ACTIONS.—

“(A) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

“(i) enjoin that practice;

“(ii) enforce compliance of this section;

“(iii) obtain damages—

“(I) in the sum of actual damages, restitution, and other compensation on behalf of the residents of the State; and

“(II) punitive damages, if the violation is willful or intentional; and

“(iv) obtain such other equitable relief as the court may consider to be appropriate.

“(B) NOTICE.—Before bringing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General of the United States—

“(i) written notice of the action; and

“(ii) a copy of the complaint for the action.

“(C) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this section, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

“(i) the business entity has made a reasonably diligent search of its available business records; and

“(ii) the records requested under this section do not exist or are not available.

“(D) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to provide a private right of action or claim for relief.

“(2) INTERVENTION.—

“(A) IN GENERAL.—On receiving notice of an action under paragraph (1)(B), the Attorney General of the United States shall have the right to intervene in that action.

“(B) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under this subsection, the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

“(C) SERVICE OF PROCESS.—Upon request of the Attorney General of the United States, the attorney general of a State that has filed an action under this subsection shall, pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Government with—

“(i) a copy of the complaint; and

“(ii) written disclosure of substantially all material evidence and information in the

possession of the attorney general of the State.

“(3) CONSTRUCTION.—For purposes of bringing any civil action under this subsection, nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

“(A) to conduct investigations;

“(B) to administer oaths or affirmations;

or

“(C) to compel the attendance of witnesses or the production of documentary and other evidence.

“(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for a violation of this section, no State may, during the pendency of that action, institute an action under this subsection against any defendant named in the complaint in that action for violation of that practice.

“(5) VENUE; SERVICE OF PROCESS.—

“(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States—

“(i) where the defendant resides;

“(ii) where the defendant is doing business;

or

“(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

“(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

“(i) resides;

“(ii) is doing business; or

“(iii) may be found.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

“1028A. Treatment of identity theft mitigation.”.

SEC. 773. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) INFORMATION REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

“(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

“(1) BLOCK.—Except as provided in paragraphs (4) and (5) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported.

“(2) REINVESTIGATION.—A consumer reporting agency shall reinvestigate any information that a consumer has requested to be blocked under paragraph (1) in accordance with the requirements of subsections (a) through (d).

“(3) NOTIFICATION.—A consumer reporting agency shall, within the time period specified in subsection (a)(2)(A)—

“(A) provide the furnisher of the information identified by the consumer under paragraph (1) with the information described in subsection (a)(2); and

“(B) notify the furnisher—

“(i) that the information may be a result of identity theft;

“(ii) that a police report has been filed;

“(iii) that a block has been requested under this subsection; and

“(iv) of the effective date of the block.

“(4) AUTHORITY TO DECLINE OR RESCIND.—

“(A) IN GENERAL.—A consumer reporting agency may at any time decline to block, or may rescind any block, of consumer information under this subsection if—

“(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency finds that—

“(I) the block was issued, or the request for a block was made, based on a misrepresentation of fact by the consumer relevant to the request to block; or

“(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions;

“(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error; or

“(iii) the consumer reporting agency determines—

“(I) that the consumer's dispute is frivolous or irrelevant in accordance with subsection (a)(3); or

“(II) after completion of its reinvestigation under subsection (a)(1), that the information disputed by the consumer is accurate, complete, and verifiable in accordance with subsection (a)(5).

“(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified, in the same manner and within the same time period as consumers are notified of the reinstitution of information under subsection (a)(5)(B).

“(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

“(5) EXCEPTIONS.—

“(A) NEGATIVE INFORMATION DATA.—A consumer reporting agency shall not be required to comply with this subsection when such agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

“(i) dishonored checks;

“(ii) accounts closed for cause;

“(iii) substantial overdrafts;

“(iv) abuse of automated teller machines;

or

“(v) other information which indicates a risk of fraud occurring.

“(B) RESELLERS.—The provisions of this subsection do not apply to a consumer reporting agency if the consumer reporting agency—

“(i) does not maintain a file on the consumer from which consumer reports are produced;

“(ii) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

“(iii) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.”.

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

“(j) Any person who knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of infor-

mation by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.”.

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

“SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

“(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

“(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 4 years from the date of the defendant's violation if—

“(1) the plaintiff is the victim of an identity theft; or

“(2) the plaintiff—

“(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

“(B) has not materially and willfully misrepresented such a claim.”.

SEC. 774. COORDINATING COMMITTEE STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking “and the Commissioner of Immigration and Naturalization” and inserting “the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,”; and

(2) in subsection (c), by striking “2 years after the effective date of this Act.” and inserting “on December 28, 2004.”.

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 773 of the Identity Theft Victims Assistance Act of 2002), including telecommunications and utility companies, and organizations representing consumers.”.

(c) REPORT DISTRIBUTION AND CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end

of each year of the existence of the coordinating committee, shall report on the activities of the coordinating committee to—

“(A) the Committee on the Judiciary of the Senate;

“(B) the Committee on the Judiciary of the House of Representatives;

“(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(D) the Committee on Financial Services of the House of Representatives.”;

(2) in subparagraph (E), by striking “and” at the end; and

(3) by striking subparagraph (F) and inserting the following:

“(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

“(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft;

“(H) a comprehensive description of how the Federal Government can best provide State and local law enforcement agencies with timely and current information regarding terrorists or terrorist activity where such information specifically relates to identity theft; and

“(I) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

“(i) facilitate more effective investigation and prosecution of cases involving—

“(I) identity theft; and

“(II) the creation and distribution of false identification documents;

“(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and

“(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person.”.

SA 4758. Mr. HATCH submitted an amendment intended to be proposed by him to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 98, strike line 13 and all that follows through page 99, line 7, and insert the following:

(4) ASSISTANCE IN ESTABLISHING DEPARTMENT.—At the request of the Under Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department for purposes of assisting in the establishment or organization of the technical programs of the Department through an agreement that includes provisions for minimizing conflicts between work assignments of such personnel.

(k) OFFICE OF TECHNOLOGY TRANSFER AND STANDARDS.—

(1) ESTABLISHMENT.—There is established within the Directorate of Science and Technology the Office of Technology Transfer and Standards (in this subsection referred to as the “OTTS”).

(2) ASSISTANT SECRETARY.—

(A) APPOINTMENT.—There shall be an Assistant Secretary for Technology Transfer and Standards (in this subsection referred to as the “Assistant Secretary”), who shall report to the Under Secretary for Science and Technology, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) PRINCIPAL RESPONSIBILITY.—The principal responsibility of the Assistant Secretary shall be to effectively and efficiently

manage technology transfer and standards development and utilization within the Department.

(3) OTHER RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—The Assistant Secretary shall—

(A) encourage and coordinate the use of cooperative research and development agreements or other partnerships authorized by law within all Directorates of the Department, including—

(i) all cooperative research and development agreements under section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710);

(ii) the licensing of intellectual property in accordance with Federal law; and

(iii) all licensing agreements with nongovernmental organizations;

(B) establish the criteria, and make recommendations to the Under Secretary of Science and Technology, regarding the licensing or transfer of intellectual property to nongovernmental organizations;

(C) coordinate, in consultation with the Chief Information Officer, all standards utilized by the Department in the development of technology for homeland security, including—

(i) participation in standards development organizations within and outside of the Federal Government;

(ii) coordination of all efforts within the Department to ensure expeditious implementation and consistency of standards within and outside of the Department; and

(D) promulgate regulations and procedures necessary to accomplish the duties of the OTTS.

SA 4759. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, between lines 12 and 13, insert the following:

(n) UNIVERSITY-BASED CENTERS FOR TECHNOLOGY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall administer research, development, demonstration, testing, and evaluation programs 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; and

(B) distribute funds through grants, cooperative agreements, and contracts consistent with the policies and methods in this Act.

(2) 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.

(3) PURPOSE.—The purpose of the center or centers established pursuant to paragraph (2) shall be to create a coordinated, university-based system to enhance the Nation’s homeland security.

(4) SELECTION CRITERIA.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider each institution’s—

(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; and

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

(5) DISCRETION OF THE SECRETARY.—The Secretary shall have the discretion to—

(A) determine the number of centers for homeland security that will be established; and

(B) consider additional criteria as necessary to meet the evolving needs of homeland security.

(6) REPORT.—The Secretary shall report to Congress concerning the implementation of this subsection, as necessary.

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

SA 4760. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, line 6, insert “(other than the proviso in section 103(a)(1) of the Immigration and Nationality Act)” after “appears”.

On page 226, strike lines 19 and 20.

On page 226, line 21, strike “(C)” and insert “(B)”.

On page 226, line 23, strike “(D)” and insert “(C)”.

On page 243, line 10, strike “All functions” and insert “Except as provided in title XIII, or any amendment made by that title, all functions”.

Beginning on page 252, strike line 22 and all that follows through line 5 on page 253.

Beginning on page 304, strike line 1 and all that follows through line 15 on page 312 and insert the following:

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

SEC. 1301. 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 1302.

SEC. 1302. 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 as may be necessary to carry out the authorities and functions of immigration judges, administrative law judges, and to carry out such immigration appellate review functions as may be necessary, under this Act through the Executive Office of Immigration Review of the Department of Justice.

“(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.”

SEC. 1303. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1302, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

SA 4761. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I of division A, add the following:

SEC. 172. ADMINISTRATIVE SUBPOENAS FOR TERRORISM INVESTIGATIONS.

Section 3486(a)(1)(A)(i)(I) of title 18, United States Code, is amended—

(1) by striking “; or (II)” and inserting “, (II)”;

(2) by inserting “or (III) any investigation under chapter 113B,” after “children.”

SA 4762. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I of division A, add the following:

SEC. 172. ADMINISTRATIVE SUBPOENAS TO APPREHEND FUGITIVES.

(a) IN GENERAL.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

“§ 1075. Administrative subpoenas to apprehend fugitives

“(a) DEFINITIONS.—In this section:

“(1) FUGITIVE.—The term ‘fugitive’ means a person who—

“(A) having been accused by complaint, information, or indictment under Federal law or having been convicted of committing a felony under Federal law, flees or attempts to flee from or evades or attempts to evade the jurisdiction of the court with jurisdiction over the felony;

“(B) having been accused by complaint, information, or indictment under State law or having been convicted of committing a felony under State law, flees or attempts to flee from, or evades or attempts to evade, the jurisdiction of the court with jurisdiction over the felony;

“(C) escapes from lawful Federal or State custody after having been accused by com-

plaint, information, or indictment or having been convicted of committing a felony under Federal or State law; or

“(D) is in violation of subparagraph (2) or (3) of the first undesignated paragraph of section 1075.

“(2) INVESTIGATION.—The term ‘investigation’ means, with respect to a State fugitive described in subparagraph (B) or (C) of paragraph (1), an investigation in which there is reason to believe that the fugitive fled from or evaded, or attempted to flee from or evade, the jurisdiction of the court, or escaped from custody, in or affecting, or using any facility of, interstate or foreign commerce, or as to whom an appropriate law enforcement officer or official of a State or political subdivision has requested the Attorney General to assist in the investigation, and the Attorney General finds that the particular circumstances of the request give rise to a Federal interest sufficient for the exercise of Federal jurisdiction pursuant to section 1075.

“(b) SUBPOENAS AND WITNESSES.—

“(1) SUBPOENAS.—In any investigation with respect to the apprehension of a fugitive, the Attorney General may subpoena witnesses for the purpose of the production of any records (including books, papers, documents, electronic data, and other tangible and intangible items that constitute or contain evidence) that the Attorney General finds, based on articulable facts, are relevant to discerning the whereabouts of the fugitive. A subpoena under this subsection shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

“(2) WITNESSES.—The attendance of witnesses and the production of records may be required from any place in any State or other place subject to the jurisdiction of the United States at any designated place where the witness was served with a subpoena, except that a witness shall not be required to appear more than 500 miles distant from the place where the witness was served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

“(c) SERVICE.—

“(1) AGENT.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

“(2) NATURAL PERSON.—Service upon a natural person may be made by personal delivery of the subpoena to that person or by certified mail with return receipt requested.

“(3) CORPORATION.—Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

“(4) AFFIDAVIT.—The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

“(d) CONTUMACY OR REFUSAL.—

“(1) IN GENERAL.—In the case of the contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records if so ordered.

“(2) CONTEMPT.—Any failure to obey the order of the court may be punishable by the court as contempt thereof.

“(3) PROCESS.—All process in any case to enforce an order under this subsection may be served in any judicial district in which the person may be found.

“(4) RIGHTS OF SUBPOENA RECIPIENT.—Not later than 20 days after the date of service of an administrative subpoena under this section upon any person, or at any time before the return date specified in the subpoena, whichever period is shorter, such person may file, in the district within which such person resides, is found, or transacts business, a petition to modify or quash such subpoena on grounds that—

“(A) the terms of the subpoena are unreasonable or oppressive;

“(B) the subpoena fails to meet the requirements of this section; or

“(C) the subpoena violates the constitutional rights or any other legal rights or privilege of the subpoenaed party.

“(e) GUIDELINES.—

“(1) IN GENERAL.—The Attorney General shall issue guidelines governing the issuance of administrative subpoenas pursuant to this section.

“(2) REVIEW.—The guidelines required by this subsection shall mandate that administrative subpoenas may be issued only after review and approval of senior supervisory personnel within the respective investigative agency or component of the Department of Justice and of the United States Attorney for the judicial district in which the administrative subpoena shall be served.

“(f) NONDISCLOSURE REQUIREMENTS.—

“(1) IN GENERAL.—Except as otherwise provided by law, the Attorney General may apply to a court for an order requiring the party to whom an administrative subpoena is directed to refrain from notifying any other party of the existence of the subpoena or court order for such period as the court deems appropriate.

“(2) ORDER.—The court shall enter such order if it determines that there is reason to believe that notification of the existence of the administrative subpoena will result in—

“(A) endangering the life or physical safety of an individual;

“(B) flight from prosecution;

“(C) destruction of or tampering with evidence;

“(D) intimidation of potential witnesses; or

“(E) otherwise seriously jeopardizing an investigation or undue delay of a trial.

“(g) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees, who in good faith produce the records or items requested in a subpoena shall not be liable in any court of any State or the United States to any customer or other person for such production or for non-disclosure of that production to the customer, in compliance with the terms of a court order for nondisclosure.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 49 of title 18, United States Code, is amended by adding at the end the following:

“1075. Administrative subpoenas to apprehend fugitives.”

SA 4763. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for

other purposes; which was ordered to lie on the table; as follows:

Insert after section 312, the following:

SEC. 313. PROTECTIONS FOR HUMAN RESEARCH SUBJECTS.

The Secretary shall ensure that all research conducted or supported by the Department complies with the protections for human research subjects, as described in part 46 of title 45, Code of Federal Regulations, or in equivalent regulations as promulgated by the Secretary.

SA 4764. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 304 and 305 and insert the following:

SEC. 304. RESEARCH PROJECTS.

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 to ensure consistency with the national policies and strategic plans for such activities.

SA 4765. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In section 503, strike paragraph (6) and insert the following:

(b) STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.—

(1) 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—

(A) in subsection (a)(1)—

(i) by striking “Secretary of Health and Human Services” and inserting “Secretary of Homeland Security”;

(ii) by inserting “the Secretary of Health and Human Services and” between “in coordination with” and “the Secretary of Veterans Affairs”; and

(iii) by inserting “of Health and Human Services” after “as are determined by the Secretary”; and

(B) in subsections (a)(2) and (b), by inserting “of Health and Human Services” after “Secretary” each place it appears.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SA 4766. Mr. MCCAIN submitted an amendment intended to be proposed to

amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. . ESTABLISHMENT OF ENTITY TO INVEST IN NEW TECHNOLOGIES.

The Secretary may provide financial support, to a nonprofit, nongovernment enterprise established by the Secretary for the purpose of identifying and investment new technology that show promise for homeland security applications.

SA 4767. Mr. GRASSLEY (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 98, strike lines 3 and 4, and insert the following:

“(B)(i) any provision of section 2302, relating to prohibited personnel practices; or

“(ii) any provision of law implementing any provision of law referred to in paragraphs (8) and (9) of section 2302(b);”.

SA 4768. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, strike line 20 and all that follows through page 90, line 2, and insert the following:

(c) NOTIFICATION REQUIRED.—If the 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 to the President of the Senate, the Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress, a copy of such notice and a written response to such notice that includes—

(1) a statement as to whether the Inspector General agrees or disagrees with such exercise; and

(2) the reasons for any disagreement.

(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 that Congress or the committee seeks.

(e) OVERSIGHT RESPONSIBILITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 81 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.”.

SA 4769. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, after paragraph (19), insert the following:

(20) Developing and implementing a system of Interagency Homeland Security Fusion Centers, including regional centers, which shall—

(A) be responsible for coordinating the interagency fusion of tactical homeland security intelligence;

(B) facilitate information sharing between all of the participating agencies;

(C) provide intelligence cueing to the appropriate agencies concerning threats to the homeland security of the United States;

(D) be composed of individuals designated by the Secretary, and may include representatives of—

(i) the agencies described in clauses (i) and

(ii) of subsection (a)(1)(B);

(iii) agencies within the Department;

(iv) any other Federal, State, or local agency the Secretary deems necessary; and

(v) representatives of such foreign governments as the President may direct;

(E) be established in an appropriate number to adequately accomplish their mission;

(F) operate in conjunction with or in place of other intelligence or fusion centers currently in existence; and

(G) have an implementation plan submitted to Congress no later than 1 year after the date of enactment of this Act.

SA 4770. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

SEC. —. REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.

No later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's

Integrated Deepwater System for 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SA 4771. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. . REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

(a) REQUIREMENT.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

(f) EXCEPTION FOR CERTAIN FOODS.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold (as defined in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1))).

(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) GEOGRAPHIC COVERAGE.—In this section, the term “United States” includes the possessions of the United States.

SA 4772. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REVIEW OF FOOD SAFETY.

(a) REVIEW OF FOOD SAFETY LAWS AND FOOD SAFETY ORGANIZATIONAL STRUCTURE.—The Secretary shall enter into an agreement with and provide funding to the National Academy of Sciences to conduct a detailed, comprehensive study which shall—

(1) review all Federal statutes and regulations affecting the safety and security of the food supply to determine the effectiveness of the statutes and regulations at protecting the food supply from deliberate contamination; and

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness of the organizational structure at protecting the food supply from deliberate contamination.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall prepare and submit to the President, the Secretary, and Congress a comprehensive report containing—

(A) the findings and conclusions derived from the reviews conducted under subsection (a); and

(B) specific recommendations for improving—

(i) the effectiveness and efficiency of Federal food safety and security statutes and regulations; and

(ii) the organizational structure of Federal food safety oversight.

(2) CONTENTS.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect

public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress the response of the Department to the recommendations of the report and recommendations of the Department to further protect the food supply from contamination.

SA 4773. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) DEFINITION.—In this section, the term “enterprise architecture”—

(1) means—

(A) a strategic information asset base, which defines the mission;

(B) the information necessary to perform the mission;

(C) the technologies necessary to perform the mission; and

(D) the transitional processes for implementing new technologies in response to changing mission needs; and

(2) includes—

(A) a baseline architecture;

(B) a target architecture; and

(C) a sequencing plan.

(b) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall—

(1) endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable;

(2) in furtherance of paragraph (1), oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation;

(3) as the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (2); and

(4) report to Congress on the development and implementation of the enterprise architecture under paragraph (2) in—

(A) each implementation progress report required under this Act; and

(B) each biennial report required under this Act.

(c) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(A) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(B) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(2) **TIMETABLES.**—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan under paragraph (1).

(3) **IMPLEMENTATION.**—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall—

(A) ensure the implementation of the enterprise architecture developed under paragraph (1)(A); and

(B) coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (1)(A).

(4) **UPDATED VERSIONS.**—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under paragraph (1), as necessary.

(5) **REPORT.**—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan under paragraph (1).

(6) **CONSULTATION.**—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan under paragraph (1).

(7) **PRINCIPAL OFFICER.**—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget, whose primary responsibility shall be to carry out the duties of the Director under this subsection.

(d) **AGENCY COOPERATION.**—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (c).

(e) **CONTENT.**—The enterprise architecture developed under subsection (c), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

- (1) rapid deployment;
- (2) a highly secure environment, providing data access only to authorized users; and
- (3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

SA 4774. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle —National Emergency Preparedness Enhancement

SEC. 1. SHORT TITLE.

This subtitle may be cited as the “National Emergency Preparedness Enhancement Act of 2002”.

SEC. 2. PREPAREDNESS INFORMATION AND EDUCATION.

(a) **ESTABLISHMENT OF CLEARINGHOUSE.**—There is established in the Department a National Clearinghouse on Emergency Preparedness (referred to in this section as the “Clearinghouse”). The Clearinghouse shall be headed by a Director.

(b) **CONSULTATION.**—The Clearinghouse shall consult with such heads of agencies, such task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to the Strategy.

(c) **DUTIES.**—

(1) **DISSEMINATION OF INFORMATION.**—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) **CENTER.**—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a telephone number, and staff, through which information shall be made available on—

(A) ways in which States, political subdivisions, and private entities can access Federal grants;

(B) emergency preparedness education and awareness tools that businesses, schools, and the general public can use; and

(C) other information as appropriate.

(3) **PUBLIC AWARENESS CAMPAIGN.**—The Clearinghouse shall develop a public awareness campaign. The campaign shall be ongoing, and shall include an annual theme to be implemented during the National Emergency Preparedness Week established under section 4. The Clearinghouse shall work with heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) **BEST PRACTICES INFORMATION.**—The Clearinghouse shall compile and disseminate information on best practices for emergency preparedness identified by the Secretary and the heads of other agencies.

SEC. 3. PILOT PROGRAM.

(a) **EMERGENCY PREPAREDNESS ENHANCEMENT PILOT PROGRAM.**—The Department shall award grants to private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities’ facilities about emergency preparedness.

(b) **USE OF FUNDS.**—An entity that receives a grant under this subsection may use the funds made available through the grant to—

- (1) develop evacuation plans and drills;
- (2) plan additional or improved security measures, with an emphasis on innovative technologies or practices;
- (3) deploy innovative emergency preparedness technologies; or
- (4) educate employees and customers about the development and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) **FEDERAL SHARE.**—The Federal share of the cost described in subsection (a) shall be 50 percent, up to a maximum of \$250,000 per grant recipient.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 4. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) **NATIONAL WEEK.**—

(1) **DESIGNATION.**—Each week that includes September 11 is “National Emergency Preparedness Week”.

(2) **PROCLAMATION.**—The President is requested every year to issue a proclamation calling on the people of the United States (including State and local governments and the private sector) to observe the week with appropriate activities and programs.

(b) **FEDERAL AGENCY ACTIVITIES.**—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

SA 4775. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, line 9, insert after the comma “the Commandant of the Coast Guard.”.

SA 4776. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 152, line 24, insert after the word “assets” and before the comma insert the following—“(including ships, aircraft, helicopters, vehicles, the National Distress Response System, and other command/control/communications/computers/intelligence/surveillance/reconnaissance capabilities)”.

SA 4777. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, line 10, strike the words “and vehicles” and insert in lieu thereof “vehicles, the National Distress Response System, and other command/control/communications/computers/intelligence/surveillance/reconnaissance capabilities”.

SA 4778. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 156, between lines 11 and 12 insert the following—

(i) **COORDINATION WITH DEPARTMENT OF TRANSPORTATION.**—The Coast Guard shall continue to coordinate with the Department of Transportation concerning regulatory matters that will remain under the authority of the Department of Transportation, but for which the Coast Guard has enforcement or other authority.

(j) **CONSULTATION WITH COMMISSION ON OCEAN POLICY.**—The Secretary shall consult with the Commission on Ocean Policy not later than February 1, 2003 regarding plans for integration and maintenance of living marine resources, marine environmental protection, and aids to navigation missions within the Department, and with respect to coordination with other federal agencies having authority in such areas.

(k) **RESOURCE EVALUATION.**—

(1) **IN GENERAL.**—No later than 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, that—

(A) compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001;

(B) estimates—

(i) annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001;

(ii) annual funding amounts and personnel levels required to fulfill the Coast Guard's additional responsibilities for homeland security missions after September 11, 2001; and

(C) generally describes the services provided by the Coast Guard to the Department of Defense after September 11, 2001, states the cost of such services and identifies the Federal agency or agencies providing funds for those services.

(2) **ANNUAL REPORT.**—Within 30 days after the end of each fiscal year, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House a report identifying resource allocations on an hourly and monetary basis for each non-homeland security and homeland security Coast Guard mission for the fiscal year just ended.

(1) **STRATEGIC PLAN.**—(1) Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a strategic plan to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House iden-

tifying mission targets for each Coast Guard mission for fiscal years 2003, 2004 and 2005 and the specific steps necessary to achieve those targets. Such plan shall also provide an analysis and recommendations for maximizing the efficient use of Federal resources and technologies to achieve all mission requirements.

(2) The Commandant shall consult with the Secretary of Commerce and other relevant agencies to ensure the plan provides for, e.g. coordinated development and application of communications and other technologies for use in meeting non-homeland security mission targets, such as conservation and management of living marine resources, and for setting priorities for fisheries enforcement.

(3) The Inspector General shall review the final plan, and provide an independent report with its views to the Committees within 90 days after the plan has been submitted by the Commandant.

(m) **REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.**—No later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SA 4779. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAHAM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) **REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS.**—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment.

(2) review all available information on vulnerabilities on the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) Report.

(1) **CONTEXT.**—Not later than 1 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report, without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible the cost of implementing the steps.

(2) **FORMAT.**—The Comptroller General may submit the reporting in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) **RESPONSE OF THE SECRETARY.**

(1) **IN GENERAL.**—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) **FORMATS.**—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) **REPORTS PROVIDED TO COMMITTEES.**—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Transportation and Infrastructure.

SA 4780. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 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 order 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. . 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 WITH SECRETARY OF HOMELAND SECURITY.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.”

(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.”.

SA 4781. Mr. AKAKA (for himself, Mr. GRASSLEY, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA

4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107-71; 115 Stat. 620; 49 U.S.C. 44935 note) is amended—

(1) by striking “(d) SCREENER PERSONNEL.—Notwithstanding any other provision of law,” and inserting the following:

“(d) SCREENER PERSONNEL.—
“(1) IN GENERAL.—Notwithstanding any other provision of law (except as provided under paragraph (2))”;

(2) by adding at the end the following:

“(2) WHISTLEBLOWER PROTECTION.—
“(A) DEFINITION.—In this paragraph, the term “security screener” means—
“(i) any Federal employee hired as a security screener under subsection (e) of section 44935 of title 49, United States Code, or
“(ii) an applicant for the position of a security screener under that subsection.

“(B) IN GENERAL.—Notwithstanding paragraph (1)—

“(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

“(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

“(C) COVERED POSITION.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.”

SEC. . WHISTLEBLOWER PROTECTION FOR CERTAIN AIRPORT EMPLOYEES.

(a) IN GENERAL.—Section 4212(a) of title 49, 12 United States Code, is amended—

(1) by striking “(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier” and inserting the following:

“(a) DISCRIMINATION AGAINST EMPLOYEES.—
“(1) IN GENERAL.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)”;

(2) by redesignating paragraph (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:
“(2) APPLICABLE EMPLOYERS.—Paragraph (1) shall apply to—

“(A) an air carrier or contractor or subcontractor of an air carrier;

“(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

“(C) an employer of private screening personnel described in section 44919 or 44920 of this title.”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking “paragraphs (1) through (4) of subsection (a)” and inserting “subparagraphs (A) through (D) of subsection (a)(1)”;

(2) in clause (iii), by striking “paragraphs (1) through (4) of subsection (a)” and inserting “subparagraphs (A) through (D) of subsection (a)(1)”.

SA 47782. Mr. AKAKA (for himself and Mr. CARPER) submitted an amend-

ment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the director of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel, or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organization structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each director shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SA 4783. Mrs. CLINTON (for herself, Mr. INHOFE, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 12 and 13, insert the following:

(7) coordinating existing mental health services and interventions to ensure that the Department of Health and Human Services, the Department of Education, the Department of Justice, the Department of Defense, the Federal Emergency Management Agency, and the Department of Veterans Affairs, including the National Center for Post-Traumatic Stress Disorder, in conjunction with

the Department, assess, prepare, and respond to the psychological consequences of terrorist attacks or major disasters; and

SA 4784. Mrs. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 12 and 13, insert the following:

(7) coordinating existing mental health services and interventions to ensure that the Department of Health and Human Services, the Department of Education, the Department of Justice, the Department of Defense, the Federal Emergency Management Agency, and the Department of Veterans Affairs, in conjunction with the Department, assess, prepare, and respond to the psychological consequences of terrorist attacks or major disasters; and

SA 4785. Mrs. CLINTON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, between lines 7 and 8, insert the following:

(6) increase the security of the border between the United States and Canada and the ports of entry located along that border, and improving the coordination between the agencies responsible for maintaining that security; and

SA 4786. Mrs. CLINTON (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, insert between lines 5 and 6 the following:

In this subsection, the term "key resources" includes National Park Service sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including the Statue of Liberty, Independence Hall and the Liberty Bell, the Arch in St. Louis, Missouri, Mt. Rushmore, and memorials and monuments in Washington, D.C.

SA 4787. Mr. KENNEDY submitted an amendment intended to be proposed to

amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 135, between lines 10 and 11, insert the following:

SEC. 739C. LABOR STANDARDS.

(a) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this Act, except for Federal funds expended for disaster relief as provided in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), other than pursuant to section 405 (42 U.S.C. 5171), shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a et seq.).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (48 Stat. 948, chapter 482; 40 U.S.C. 276c).

SA 4788. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ CONGRESSIONAL APPROVAL REQUIREMENT FOR TIPS.

Any and all activities of the Federal Government to implement the proposed component program of the Citizens Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited, unless expressly authorized by statute.

SA 4789. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, strike lines 10 and 11 and insert the following:

TITLE VI—LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2002

SEC. 601. SHORT TITLE.

This title may be cited as the "Law Enforcement Officers Safety Act of 2002".

SEC. 602. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

"§ 926B. Carrying of concealed firearms by qualified law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term "qualified law enforcement officer" means an employee of a governmental agency who—

"(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

"(2) is authorized by the agency to carry a firearm;

"(3) is not the subject of any disciplinary action by the agency;

"(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; and

"(5) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926A the following:

"926B. Carrying of concealed firearms by qualified law enforcement officers."

SEC. 603. EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is further amended by inserting after section 926B the following:

"§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term "qualified retired law enforcement officer" means an individual who—

"(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

"(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

"(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

"(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

"(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

"(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms; and

"(6) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is further amended by inserting after the item relating to section 926B the following:

"926C. Carrying of concealed firearms by qualified retired law enforcement officers."

SA 4790. Mr. INOUE submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 14, insert "tribal," after "State."

On page 7, after line 25, insert the following:

(8) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 8, line 1, strike "(8)" and insert "(9)".

On page 8, strike lines 5 through 8 and insert the following:

(10) LOCAL GOVERNMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "local government" has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(B) EXCLUSION.—The term "local government" does not include an Indian tribe or tribal government.

On page 8, line 9, strike "(10)" and insert "(11)".

On page 8, line 13, strike "(11)" and insert "(12)".

On page 8, line 15, strike "(12)" and insert "(13)".

On page 8, strike line 17 and insert the following:

(14) TRIBAL GOVERNMENT.—The term "tribal government" means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.

(15) UNITED STATES.—The term "United

On page 10, line 22, insert ", tribal," after "State".

On page 17, line 24, insert ", tribal," after "State".

On page 19, line 1, insert ", tribal," after "State".

On page 19, line 9, insert ", tribal," after "State".

On page 19, line 20, insert ", tribal," after "State".

On page 20, line 7, insert ", tribal," after "State".

On page 20, line 16, insert ", tribal," after "State".

On page 20, line 22, insert ", tribal," after "State".

On page 21, line 13, insert ", tribal," after "State".

On page 22, line 10, insert ", tribal," after "State".

On page 23, line 13, insert ", tribal," after "State".

On page 23, line 21, insert "tribal," after "State,".

On page 31, line 1, insert ", tribal," after "State".

On page 34, line 12, insert ", tribal," after "State".

On page 34, line 13, insert ", tribal," after "State".

On page 34, line 23, insert ", tribal," after "State".

On page 35, line 8, insert ", tribal," after "State".

On page 38, line 1, strike "state," and insert "State, tribal,".

On page 42, line 5, insert "and the Indian Health Service" after "Service".

On page 42, line 23, insert "and the Indian Health Service" after "Service".

On page 52, line 3, insert ", tribal," after "State".

On page 81, line 7, insert "tribal," after "State,".

On page 83, line 17, insert "tribal," after "State,".

On page 83, line 21, insert "and the Indian Health Service" after "Service".

On page 87, line 12, insert ", tribal," after "State".

On page 87, line 15, insert ", tribal," after "State".

On page 87, line 22, insert ", tribal," after "State".

On page 88, line 2, insert ", tribal," after "State".

On page 88, line 6, insert ", tribal," after "State".

On page 136, line 14, insert ", tribal," after "state".

On page 136, line 20, insert ", a tribal government," after "State".

On page 137, line 1, insert ", a tribal government," after "State".

On page 137, line 11, insert ", tribal," after "State".

On page 137, line 19, insert ", tribal," after "state".

On page 137, line 23, insert ", Indian tribes," after "States".

On page 138, line 12, insert ", TRIBAL," after "STATE".

On page 138, line 16, insert ", tribal government," after "State".

On page 138, line 23, insert ", Indian tribes," after "States".

On page 139, line 4, insert ", Indian tribes," after "States".

On page 139, line 11, insert "or Indian tribe" after "State".

On page 139, line 21, insert ", Indian tribe," after "State".

On page 140, line 6, insert ", Indian tribes," after "States".

On page 140, line 11, insert ", Indian tribes," after "States".

On page 140, line 14, insert "or Indian tribe" after "State".

On page 141, line 2, insert "or Indian tribe" after "State".

On page 141, lines 6 and 7, strike "State and localities within the State" and insert "State or Indian tribe".

On page 141, line 9, insert ", Indian tribe," after "State".

On page 141, line 11, insert ", Indian tribe," after "State".

On page 143, between lines 7 and 8, insert the following:

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community located

in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 143, line 8, strike "(4)" and insert "(5)".

On page 143, line 13, strike "(5)" and insert "(6)".

On page 143, lines 16 through 18, strike "an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior".

SA 4791. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REORGANIZATION AUTHORITY.

(a) EXPEDITED PROCEDURES.—

(1) DEFINITIONS.—As used in this section, the following definitions shall apply:

(A) AGENCY.—The term "agency" shall have the meaning given such term in section 181(1).

(B) IMPLEMENTATION BILL.—The term "implementation bill" means a bill—

(i) introduced as provided under subsection (e)(1); and

(ii) containing the proposed legislation included in the reorganization plan submitted to Congress under paragraph (3).

(C) CALENDAR DAY.—The term "calendar day" means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(2) IN GENERAL.—During the first 2 years after the date of enactment of this Act, if the President determines that changes in the organization of the Department, requiring a change in law, are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan, including proposed legislation to implement the plan, specifying the reorganizations that the President determines are necessary. Any such plan may only provide for—

(A) the abolition of all or a part of an agency transferred into the Department, provided that all functions vested by law in the agency are preserved within the Department;

(B) the elimination of a statutory position transferred into the Department, provided that all functions vested by law in the position are preserved within the Department;

(C) the creation of a new agency or sub-agency within the Department;

(D) the consolidation or coordination of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency within the Department, provided that all functions vested by law in the affected agencies are preserved within the Department; or

(E) the transfer within the Department of functions that were transferred into the Department.

(3) TRANSMITTAL.—

(A) IN GENERAL.—The President shall transmit to Congress the reorganization plan, which shall include a detailed explanation.

(B) TIMING.—The reorganization plan shall be delivered to both Houses on the same day

and to each House while it is in session, except that no more than 2 plans may be pending before Congress at one time.

(4) CONTENT.—

(A) IN GENERAL.—The transmittal message of the reorganization plan shall—

(i) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(ii) include detailed information addressing the impacts of the reorganization on the employees of any agency affected by the plan, and what steps will be taken to mitigate any impacts of the plan on the employees of the agency; and

(iii) describe any improvements in homeland security management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan.

(B) IMPLEMENTATION.—In addition, the transmittal message shall include an implementation section which shall—

(i) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated nature and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(ii) contain a projected timetable for completion of the implementation process.

(C) BACKGROUND INFORMATION.—The President shall also submit such further background or other information as Congress may require for its consideration of the plan.

(5) AMENDMENTS TO PLAN.—Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any legislation has been ordered reported in either House, the President, or the designee of the President, may make amendments or modifications to the plan, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section, except the President may not modify the proposed legislation included in the plan. The President, or the designee of the President, may withdraw the plan at any time, without prejudice to the right to resubmit a modified plan.

(b) ADDITIONAL CONTENTS OF REORGANIZATION PLAN.—A reorganization plan—

(1) may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 1 or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the message transmitting the plan declares that, by reason of a reorganization made by the plan, the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan containing provisions authorized by paragraph (2) may provide that the head of an agency be an individual or a commission or board with more than 1 member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found to be applicable to comparable officers in the executive branch, by and with the advice and consent of the Senate. Any reorganization plan containing provisions required by paragraph (4) shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(C) EFFECT ON OTHER LAWS, PENDING LEGAL PROCEEDINGS.—

(1) EFFECT ON LAWS.—

(A) DEFINITION.—In this paragraph, the term “regulation or other action” means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) EFFECT.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) PENDING LEGAL PROCEEDINGS.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(d) RULES OF SENATE AND HOUSE OF REPRESENTATIVES ON REORGANIZATION PLANS.—Subsections (e) through (h) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementation bills with respect to any reorganization plans transmitted to Congress (in accordance with subsection (a)(3)); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a reorganization plan is submitted to Congress under subsection (a)(3), a single implementation bill shall be introduced (by request)—

(A) in the Senate—

(i) by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate; or

(ii) by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives—

(i) by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives; or

(ii) by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—

(A) IN GENERAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee with primary jurisdiction in the House of Representatives.

(B) COMMITTEE MAY REPORT WITH AMENDMENTS.—A committee to which an implementation bill is referred under subparagraph (A) may report such bill to the respective House with amendments proposed to be adopted.

(C) GERMANENESS REQUIREMENT.—No amendment under subparagraph (B) may be proposed unless such amendment is—

(i) germane to the implementation bill; and

(ii) within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (a)(2).

(3) REPORT ON DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 75th calendar day after the date of introduction of such bill—

(A) a motion to have the implementation bill discharged shall be in order and highly privileged, with debate limited to 1 hour equally divided; and

(B) upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(f) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEES; DEBATE; VOTE ON FINAL PASSAGE.—

(1) PROCEDURE.—When the committee has reported, or has been deemed to be discharged (under subsection (e)) from further consideration of, an implementation bill, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the implementation bill. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the implementation bill shall remain the unfinished business of the respective House until disposed.

(2) DEBATE.—

(A) IMPLEMENTATION BILL.—Debate on the implementation bill, and on all debatable amendments, motions, and appeals in connection therewith, shall be limited to not more than 20 hours, which shall be divided equally between individuals favoring and individuals opposing the implementation bill.

(B) AMENDMENTS.—Debate on amendments offered on the floor shall be limited to not

more than 10 hours, to be divided equally between individuals favoring and opposing the bill.

(C) GERMANENESS REQUIREMENT.—No amendment shall be in order which is not germane to the bill and within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (a)(2).

(D) SUBSEQUENT MOTIONS.—A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is passed or rejected shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the implementation bill, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the implementation bill shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to an implementation bill shall be decided without debate.

(g) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees by the presiding officer shall not be debatable.

(2) CONFERENCE REPORT.—Not later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses.

(h) COAST GUARD FUNCTIONS AND PERSONNEL.—Implementation bills shall not be considered subsequent Acts for the purposes of section 131(e) of this Act.

SA 4792. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Insert on page 24, line 4, of the Gramm-Miller Amendment No. 4738 to Lieberman Amendment No. 4471, a new (d)(19) to read as follows:

(d) RESPONSIBILITIES OF UNDER SECRETARY.—

(19) On behalf of the Secretary, pursuant to regulations promulgated in consultation with the statutory members of the National Security Council and advisors thereto, directing the intelligence community agencies as defined in this section, and other federal agencies to provide intelligence information, analyses of intelligence information and such other intelligence-related information that may be collected, possessed or prepared by the agency, subject to the disapproval of the President.

Insert on page 24, line 6, of the Gramm-Miller Amendment No. 4738 to Lieberman Amendment No. 4471, a new section 202 entitled "HOMELAND SECURITY ASSESSMENT CENTER." After inserting the title, insert attached text with designated edits. Then strike page 24, line 6, through page 25, line 17 of the Gramm-Miller Amendment No. 4738 to Lieberman Amendment No. 4471, and renumber sections, subsections, paragraphs and subparagraphs accordingly, beginning the renumbering with "FUNCTIONS TRANSFERRED" which is currently on page 25, line 18, of the Gramm-Miller Amendment No. 4738 to Lieberman Amendment No. 4471.

SEC. 202. HOMELAND SECURITY ASSESSMENT.

(a) ESTABLISHMENT.—There is established in the Department the Homeland Security Assessment Center.

(b) HEAD.—The Assistant Secretary of Homeland Security for Information Analysis shall be the head of the Center.

(c) RESPONSIBILITIES.—The responsibilities of the Center shall be as follows:

(1) To assist the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection in discharging the responsibilities under section 201.

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

(3) To perform such other duties as the Secretary shall provide.

(d) STAFF

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

(e) COOPERATION WITHIN DEPARTMENT.—The Secretary shall ensure that the Center cooperates closely with other officials of the Department having responsibility for infrastructure protection in order to provide the Secretary with a complete and comprehensive understanding of threats to homeland security and the actual or potential vulnerabilities of the United States in light of such threats.

(f) SUPPORT.—

(1) IN GENERAL.—The following elements of the Federal government shall provide personnel and resource support to the Center:

(A) Other elements of the Department designated by the Secretary for that purpose.

(B) The Federal Bureau of Investigation.

(C) Other elements 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)).

(D) Such other elements of the Federal Government as the President considers appropriate.

(2) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into one or more memoranda of understanding with the head of an element referred to in paragraph (1) regarding the provision of support to the Center under that paragraph.

(g) DETAIL OF PERSONNEL.—

(1) IN GENERAL.—In order to assist the Center in discharging the responsibilities under subsection 70(c), 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) Other elements of the intelligence community as defined in this section.

(H) Any other agency of the Federal Government that the Secretary considers appropriate.

(3) COOPERATIVE AGREEMENTS.—Personnel shall be detailed under this subsection pursuant to cooperative agreements entered into for that purpose by the Secretary and the head of the agency concerned.

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

(h) STUDY OF PLACEMENT WITHIN INTELLIGENCE COMMUNITY.—Not later than 90 days after the effective date of this Act, the President shall submit to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Government Reform and the Permanent select Committee on Intelligence of the House of Representatives a report assessing the advisability of the following:

(1) Placing the elements of the Center concerned with the analysis of foreign intelligence information within the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) Placing such elements within the National Foreign Intelligence Program for budgetary purposes.

SA 4793. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN TO THE BILL H.R. 5005, TO ESTABLISH THE DEPARTMENT OF Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, between lines 20 and 21, insert the following:

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

SA 4794. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 48 after line 25, insert the following:

(c) LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT.

(i) AUTHORIZATION.—Government-owned, contractor-operated laboratories that receive funds available to the Department for national security programs are authorized to carry out laboratory-directed research and development, as defined in section 3132 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(d)).

(ii) REGULATIONS.—The Secretary shall prescribe regulations for the conduct of laboratory-directed research and development at laboratories under subsection (a).

(iii) FUNDING.—Of the funds provided by the Department to laboratories under subsection (a) for national security activities, the Secretary shall provide a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory-directed research and development.

SA 4795. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the

bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 8 and 9, insert the following:

(e) OPERATIONAL TEST AND EVALUATION.—
(1) PRINCIPAL OFFICIAL FOR OPERATIONAL TEST AND EVALUATION.—The Under Secretary is the official within the Department who, under the Secretary, is responsible for operational test and evaluation activities of the Department. As such, the Under Secretary is the principal adviser to the Secretary regarding such activities and, subject to the authority, direction, and control of the Secretary, shall, with respect to the conduct of such activities, prescribe policies and procedures, engage in monitoring and review, require prompt reporting and disclosure within the Department, and coordinate joint operational testing involving two or more Under Secretaries.

(2) ANNUAL REPORT TO CONGRESS.—The Under Secretary shall submit an annual report to Congress not later than February 15 of each year on the conduct of operational test and evaluation activities of the Department, which shall include an assessment of the operational test and evaluation infrastructure of the Department and, for each major system operationally tested and evaluated during the year covered by the report, information regarding the major system's mission, background technical and programmatic data, and the results of tests and evaluations performed thereon.

(3) DEFINITIONS.—In this paragraph:

(A) MAJOR SYSTEM.—The term “major system” has the meaning given such term in section 4(9) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(9)).

(B) OPERATIONAL TEST AND EVALUATION.—The term “operational test and evaluation,” means a test, under realistic conditions, of any item (or key component) of a technology, of a device, or of equipment for the purpose of determining the effectiveness and suitability of the technology, device, or equipment for use by typical users to meet homeland security needs or objectives, together with an evaluation of the results of such test.

SA 4796. Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, insert before line 16 the following:

SEC. 1124. STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

“(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

“(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed

to the public, on a case by case basis, when necessary—

“(A) and with the consent of the alien, to preserve the confidentiality of applications for—

“(i) asylum;

“(ii) withholding of removal;

“(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

“(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902); or

“(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

“(B) to protect the national security by preventing the disclosure of—

“(i) classified information; or

“(ii) the identity of a confidential informant.”.

SA 4797. Mr. FEINGOLD (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 707. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 708. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. REPEAL OF IMMUNITY FOR CUSTOMS OFFICERS IN CONDUCTING CERTAIN SEARCHES.

(a) IN GENERAL.—Section 3061 of the Revised Statutes is amended—

(1) in subsection (a), by striking “(a)”; and

(2) by striking subsection (b).

(b) TRADE ACT OF 2002.—The Trade Act of 2002 is amended—

(1) by striking section 341; and

(2) in the table of contents, by striking the item relating to section 341.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in chapter 4 of title III of the Trade Act of 2002.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights

and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) **ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.**—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

**SPECIAL PROVISIONS CONCERNING THE
DEPARTMENT OF HOMELAND SECURITY**

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or

investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.

“(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

“(i) the President of the Senate;

“(ii) the Speaker of the House of Representatives;

“(iii) the Committee on Governmental Affairs of the Senate;

“(iv) the Committee on Government Reform of the House of Representatives; and

“(v) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.”

(e) **TECHNICAL AND CONFORMING AMENDMENTS.**—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

(f) **DEFINITION.**—In this Act, the term “civil rights and civil liberties” means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4798. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

**Subtitle B—Civil Rights Oversight and
Inspector General**

SEC. 708. CIVIL RIGHTS OFFICER.

(a) **IN GENERAL.**—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **RESPONSIBILITIES.**—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) **IN GENERAL.**—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services.”

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.

“(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ‘Assistant Inspector General’), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

“(i) the President of the Senate;

“(ii) the Speaker of the House of Representatives;

“(iii) the Committee on Governmental Affairs of the Senate;

“(iv) the Committee on Government Reform of the House of Representatives; and

“(v) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(C) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or

grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4799. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve the national security; or

"(C) prevent significant impairment to the national interests of the United States.

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4800. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 707. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 708. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

“(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

“(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

“(A) and with the consent of the alien, to preserve the confidentiality of applications for—

“(i) asylum;

“(ii) withholding of removal;

“(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

“(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902); or

“(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

“(B) to protect the national security by preventing the disclosure of—

“(i) classified information; or

“(ii) the identity of a confidential informant.”.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.

“(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ‘Assistant Inspector General’), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

“(i) the President of the Senate;

“(ii) the Speaker of the House of Representatives;

“(iii) the Committee on Governmental Affairs of the Senate;

“(iv) the Committee on Government Reform of the House of Representatives; and

“(v) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within

the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.”

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

(f) DEFINITION.—In this Act, the term “civil rights and civil liberties” means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4801. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 706. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil

Rights Officer, warrants further investigation.

SEC. 707. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 708. REPEAL OF IMMUNITY FOR CUSTOMS OFFICERS IN CONDUCTING CERTAIN SEARCHES.

(a) IN GENERAL.—Section 3061 of the Revised Statutes is amended—

(1) in subsection (a), by striking “(a)”; and

(2) by striking subsection (b).

(b) TRADE ACT OF 2002.—The Trade Act of 2002 is amended—

(1) by striking section 341; and

(2) in the table of contents, by striking the item relating to section 341.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in chapter 4 of title III of the Trade Act of 2002.

SEC. 709. STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

“(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

“(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

“(A) and with the consent of the alien, to preserve the confidentiality of applications for—

“(i) asylum;

“(ii) withholding of removal;

“(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

“(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902); or

“(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

“(B) to protect the national security by preventing the disclosure of—

“(i) classified information; or

“(ii) the identity of a confidential informant.”

SEC. 710. INSPECTOR GENERAL.

(a) **IN GENERAL.**—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) **ESTABLISHMENT.**—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(c) **ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.**—

(1) **IN GENERAL.**—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) **RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.**—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) **ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.**—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE
DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.

“(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

“(i) the President of the Senate;

“(ii) the Speaker of the House of Representatives;

“(iii) the Committee on Governmental Affairs of the Senate;

“(iv) the Committee on Government Reform of the House of Representatives; and

“(v) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.”

(e) **TECHNICAL AND CONFORMING AMENDMENTS.**—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

(f) **DEFINITION.**—In this Act, the term “civil rights and civil liberties” means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4802. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed to amendment

SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place add the following:
() SEC. . Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386; 114 Stat. 1542) is amended—

(1) in subsection (a)(2)(A)(ii)—

(A) by striking “February 17, 1999,” and inserting “May 17, 1996, May 7, 1997, February 17, 1999, October 22, 1999, December 15, 1999 (or who has or could have been subsequently joined in a suit filed on December 15, 1999 pursuant to Fed. R. Civ. P. 20(a)),” and

(B) by striking “or July 27, 2000” and inserting “April 3, 2000, October 27, 2000, or July 27, 2000”;

(2) by amending subsection (b)(1) to read as follows:

“(b)(1) JUDGMENTS AGAINST DESIGNATED STATE SPONSORS OF TERRORISM.—For purposes of funding the payments under subsection (a) in the case of judgments and sanctions entered against a government of a designated state sponsor of terrorism or its entities, the President shall vest and liquidate up to and not exceeding the amount of property of such government (including the agencies or instrumentalities controlled in fact by such government or in which such government owns directly or indirectly controlling interest) and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702), or any other proclamation, order, or regulation issued thereunder.”

(3) by amending subsection (b)(2)(B) to read as follows:

“(B) the Iran Foreign Military Sales Program Account within the Foreign Military Sales Fund on the date of enactment of this Act (less amounts therein as to which the United States has an interest in subrogation arising prior to the date of enactment of this Act);” and

(4) in subsection (c)—

(A) by inserting after the phrase “to the extent of the payments” the phrase “made prior to the date of enactment of this Act”.

SA 4808. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, insert between lines 7 and 8 the following:

SEC. 702. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) DUTIES.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

- (i) law enforcement agencies;
- (ii) fire and rescue agencies;
- (iii) medical providers;
- (iv) emergency service providers; and
- (v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

- (i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities.

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.—

(1) IN GENERAL.—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the “Interagency Committee”, that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) MEMBERSHIP.—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) LEADERSHIP.—The members of the Interagency Committee shall select annually a chairperson.

(5) MEETINGS.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an Advisory Council for the Interagency Committee (in this section referred to as the “Advisory Council”).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) DUTIES.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) REPRESENTATION.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) CHAIRPERSON.—The Advisory Council shall select annually a chairperson from among its members.

(4) COMPENSATION OF MEMBERS.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) MEETINGS.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

SA 4809. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 111, line 21, strike all through page 125, line 5 and insert the following:

SEC. 5. REORGANIZATIONS AND DELEGATIONS.

(a) REORGANIZATION AUTHORITY.—

(1) IN GENERAL.—The Secretary may, as necessary and appropriate—

(A) allocate, or reallocate, functions among officers of the Department; and

(B) establish, consolidate, alter, or discontinue organizational entities within the Department.

(2) LIMITATION.—Paragraph (1) does not apply to—

(A) any office, bureau, unit, or other entity established by law and transferred to the Department;

(B) any function vested by law in an entity referred to in subparagraph (A) or vested by law in an officer of such an entity; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any officer or organizational entity of the Department.

(b) EXPEDITED PROCEDURES.—

(1) DEFINITIONS.—In subsections (b) through (i), the following definitions shall apply:

(A) AGENCY.—The term “agency” shall have the meaning given such term in section 181(1).

(B) IMPLEMENTATION BILL.—The term “implementation bill” means a bill—

(i) introduced as provided under subsection (f)(1); and

(ii) containing the proposed legislation included in the reorganization plan submitted to Congress under subsection (b)(3).

(C) CALENDAR DAY.—The term “calendar day” means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(2) IN GENERAL.—During the first 2 years after the date of enactment of this Act, if the President determines that changes in the organization of the Department, requiring a change in law, are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan, including proposed legislation to implement the plan, specifying the reorganizations that the President determines are necessary. Any such plan may only provide for—

(A) the abolition of all or a part of an agency transferred into the Department, provided that all functions vested by law in the agency are preserved within the Department;

(B) the elimination of a statutory position transferred into the Department, provided that all functions vested by law in the position are preserved within the Department;

(C) the creation of a new agency or sub-agency within the Department;

(D) the consolidation or coordination of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency within the Department, provided that all functions vested by law in the affected agencies are preserved within the Department; or

(E) the transfer within the Department of functions that were transferred into the Department.

(3) TRANSMITTAL.—

(A) IN GENERAL.—The President shall transmit to Congress the reorganization plan, which shall include a detailed explanation.

(B) TIMING.—The reorganization plan shall be delivered to both Houses on the same day and to each House while it is in session, except that no more than 2 plans may be pending before Congress at 1 time.

(4) CONTENT.—

(A) IN GENERAL.—The transmittal message of the reorganization plan shall—

(i) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(ii) include detailed information addressing the impacts of any agency affected by the plan, and what steps will be taken to mitigate any impacts of the plan on the employees of the agency; and

(iii) describe any improvements in homeland security management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan.

(B) IMPLEMENTATION.—In addition, the transmittal message shall include an implementation section which shall—

(i) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated nature and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(ii) contain a projected timetable for completion of the implementation process.

(C) BACKGROUND INFORMATION.—The President shall also submit such further background or other information as Congress may require for its consideration of the plan.

(5) AMENDMENTS TO PLAN.—Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any legislation has been ordered reported in either House, the President, or the designee of the President, may make amendments or modifications to the plan, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section, except the President may not modify the proposed legislation included in the plan. The President, or the designee of the President, may withdraw the plan at any time, without prejudice to the right to resubmit a modified plan.

(C) ADDITIONAL CONTENTS OF REORGANIZATION PLAN.—A reorganization plan—

(1) may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 1 or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the message transmitting the plan declares that, by reason of a reorganization made by the plan, the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan containing provisions authorized by paragraph (2) may provide that the head of an agency be an individual or a commission or board with more than 1 member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found to be applicable to comparable officers in the executive branch, by and with the advice and consent of the Senate. Any reorganization plan containing provisions required by paragraph (4) shall provide for the transfer of unexpended balances and other funds only if such balances are used for the purposes for which the appropriation was originally made.

(d) EFFECT ON OTHER LAWS, PENDING LEGAL PROCEEDINGS.—

(1) EFFECT ON LAWS.—

(A) DEFINITION.—In this paragraph, the term “regulation or other action” means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) EFFECT.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the

function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) PENDING LEGAL PROCEEDINGS.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(e) RULES OF SENATE AND HOUSE OF REPRESENTATIVES ON REORGANIZATION PLANS.—Subsections (f) through (i) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementation bills with respect to any reorganization plans transmitted to Congress (in accordance with subsection (b)(3)); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a reorganization plan is submitted to Congress under subsection (b)(3), a single implementation bill shall be introduced (by request)—

(A) in the Senate—

(i) by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate; or

(ii) by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives—

(i) by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives; or

(ii) by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—

(A) IN GENERAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee with primary jurisdiction in the House of Representatives.

(B) COMMITTEE MAY REPORT WITH AMENDMENTS.—A committee to which an implementation bill is referred under subparagraph (A) may report such bill to the respective House with amendments proposed to be adopted.

(C) GERMANENESS REQUIREMENT.—No amendment under subparagraph (B) may be proposed unless such amendment is—

(i) germane to the implementation bill; and

(ii) within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (b)(2).

(3) REPORT ON DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 75th calendar day after the date of introduction of such bill—

(A) a motion to have the implementation bill discharged shall be in order and highly privileged, with debate limited to 1 hour equally divided; and

(B) upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(g) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEES; DEBATE; VOTE ON FINAL PASSAGE.—

(1) PROCEDURE.—When the committee has reported, or has been deemed to be discharged (under subsection (f)) from further consideration of, an implementation bill, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the implementation bill. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the implementation bill shall remain the unfinished business of the respective House until disposed.

(2) DEBATE.—

(A) IMPLEMENTATION BILL.—Debate on the implementation bill, and on all debatable amendments, motions, and appeals in connection therewith, shall be limited to not more than 20 hours, which shall be divided equally between individuals favoring and individuals opposing the implementation bill.

(B) AMENDMENTS.—Debate on amendments offered on the floor shall be limited to not more than 10 hours, to be divided equally between individuals favoring and opposing the bill.

(C) GERMANENESS REQUIREMENT.—No amendment shall be in order which is not germane to the bill and within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (b)(2).

(D) SUBSEQUENT MOTIONS.—A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is passed or rejected shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the implementation bill, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the implementation bill shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to an implementation bill shall be decided without debate.

(h) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees by the presiding officer shall not be debatable.

(2) CONFERENCE REPORT.—No later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses.

(i) COAST GUARD FUNCTIONS AND PERSONNEL.—Implementation bills shall not be considered subsequent Acts for the purposes of section 131(e) of this Act.

(j) DELEGATION AUTHORITY.—

(1) SECRETARY.—The Secretary may—

(A) delegate any of the functions of the Secretary; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) OFFICERS.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) INTERUNIT DELEGATION.—Any function assigned by this title to an organizational unit of the Department or to the head of an organizational unit of the Department may not be delegated to an officer or employee outside of that unit.

(B) FUNCTIONS.—Any function vested by law in an entity established by law and transferred to the Department or vested by law in an officer of such an entity may not be delegated to an officer or employee outside of that entity.

SA 4810. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, strike line 1 and all that follows through page 31, line 2, and insert the following:

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

SEC. 201. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established a Directorate of Intelligence which shall serve as a national-level focal point for information available to the United States Government relating to the plans, intentions, and capabilities of terrorists and terrorist organizations for the purpose of supporting the mission of the Department.

(B) SUPPORT TO DIRECTORATE.—The Directorate of Intelligence shall communicate, coordinate, and cooperate with—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(C) INFORMATION ON INTERNATIONAL TERRORISM.—

(i) DEFINITIONS.—In this subparagraph, the terms “foreign intelligence” and “counterintelligence” shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(ii) PROVISION OF INFORMATION TO COUNTERTERRORIST CENTER.—In order to ensure that the Secretary is provided with appropriate analytical products, assessments,

and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community with respect to foreign intelligence and counterintelligence), the Attorney General, and the heads of other agencies of the Federal Government shall ensure that all intelligence and other information relating to international terrorism is provided to the Director of Central Intelligence's Counterterrorist Center.

(iii) ANALYSIS OF INFORMATION.—The Director of Central Intelligence shall ensure the analysis by the Counterterrorist Center of all intelligence and other information provided the Counterterrorist Center under clause (ii).

(iv) ANALYSIS OF FOREIGN INTELLIGENCE.—The Counterterrorist Center shall have primary responsibility for the analysis of foreign intelligence relating to international terrorism.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1)(A) Receiving and analyzing law enforcement and other information from agencies of the United States Government, State and local government agencies (including law enforcement agencies), and private sector entities, and fusing such information and analysis with analytical products, assessments, and warnings concerning foreign intelligence from the Director of Central Intelligence's Counterterrorist Center in order to—

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

(ii) detect and identify threats of terrorism against the United States and other threats to homeland security.

(B) Nothing in this paragraph shall be construed to prohibit the Directorate from conducting supplemental analysis of foreign intelligence relating to threats of terrorism against the United States and other threats to homeland security.

(2) Ensuring timely and efficient access by the Directorate to—

(A) information from agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, private sector entities; and

(B) open source information.

(3) Representing the Department in procedures to establish requirements and priorities in the collection of national intelligence for purposes of the provision to the executive branch under section 103 of the National Security Act of 1947 (50 U.S.C. 403-3) of national intelligence relating to foreign terrorist threats to the homeland.

(4) Consulting with the Attorney General or the designees of the Attorney General, and other officials of the United States Government to establish overall collection priorities and strategies for information, including law enforcement information, relating to domestic threats, such as terrorism, to the homeland.

(5) Disseminating information to the Directorate of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism against the United States and other threats to homeland security.

(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department and the appropriate officers

of the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, and advanced analytical tools, to carry out the mission of the Directorate.

(7) Developing, in conjunction with the Chief Information Officer of the Department and appropriate officers of the agencies described under subsection (a)(1)(B), appropriate software, hardware, and other information technology, and security and formatting protocols, to ensure that Federal Government databases and information technology systems containing information relevant to terrorist threats, and other threats against the United States, are—

(A) compatible with the secure communications and information technology infrastructure referred to under paragraph (6); and

(B) comply with Federal laws concerning privacy and the prevention of unauthorized disclosure.

(8) Ensuring, in conjunction with the Director of Central Intelligence and the Attorney General, that all material received by the Department is protected against unauthorized disclosure and is utilized by the Department only in the course and for the purposes of fulfillment of official duties, and is transmitted, retained, handled, and disseminated consistent with—

(A) the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures; or

(B) as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information, and the privacy interest of United States persons as defined under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(9) Providing, through the Secretary, to the appropriate law enforcement or intelligence agency, information and analysis relating to threats.

(10) Coordinating, or where appropriate providing, training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence information revealed in their ordinary duties or utilize information received from the Department, including training and support under section 908 of the USA PATRIOT Act of 2001 (Public Law 107-56).

(11) Reviewing, analyzing and making recommendations through the Secretary for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats of terrorism against the United States and other threats to homeland security within the United States Government and between the United States Government and State and local governments, local law enforcement and intelligence agencies, and private sector entities.

(12) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(13) Performing other related and appropriate duties as assigned by the Secretary.

(c) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Unless otherwise directed by the President, the Secretary shall have access to, and United States Government agencies shall provide, all reports, assessments, analytical information, and information, and information, including unevaluated intelligence, relating to the plans, intentions, capabilities, and activities of terror-

ists and terrorist organizations, and to other areas of responsibility as described in this division, that may be collected, possessed, or prepared, by any other United States Government agency.

(2) ADDITIONAL INFORMATION.—As the President may further provide, the Secretary shall receive additional information requested by the Secretary from the agencies described under subsection (a)(1)(B).

(3) OBTAINING INFORMATION.—All information shall be provided to the Secretary consistent with the requirements of subsection (b)(8) unless otherwise determined by the President.

(4) COOPERATIVE ARRANGEMENTS.—The Secretary may enter into cooperative arrangements with agencies described under subsection (a)(1)(B) to share material on a regular or routine basis, including arrangements involving broad categories of material, and regardless of whether the Secretary has entered into any such cooperative arrangement, all agencies described under subsection (a)(1)(B) shall promptly provide information under this subsection.

(d) AUTHORIZATION TO SHARE LAW ENFORCEMENT INFORMATION.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of information sharing provisions of—

(1) section 203(d) of the USA PATRIOT Act of 2001 (Public Law 107-56);

(2) section 2517(6) of title 18, United States Code; and

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

(e) ADDITIONAL RISK ANALYSIS AND RISK MANAGEMENT RESPONSIBILITIES.—The Under Secretary for Intelligence shall, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, be responsible for—

(1) developing analysis concerning the means and methods terrorists might employ to exploit vulnerabilities in the homeland security infrastructure;

(2) supporting experiments, tests, and inspections to identify weaknesses in homeland defenses;

(3) developing countersurveillance techniques to prevent attacks;

(4) conducting risk assessments to determine the risk posed by specific kinds of terrorist attacks, the probability of successful attacks, and the feasibility of specific countermeasures.

(f) MANAGEMENT AND STAFFING.—

(1) IN GENERAL.—The Directorate of Intelligence shall be staffed, in part, by analysts as requested by the Secretary and assigned by the agencies described under subsection (a)(1)(B). The analysts shall be assigned by reimbursable detail for periods as determined necessary by the Secretary in conjunction with the head of the assigning agency. No such detail may be undertaken without the consent of the assigning agency.

(2) EMPLOYEES ASSIGNED WITHIN DEPARTMENT.—The Secretary may assign employees of the Department by reimbursable detail to the Directorate.

(3) SERVICE AS FACTOR FOR SELECTION.—The President, or the designee of the President, shall prescribe regulations to provide that service described under paragraph (1) or (2), or service by employees within the Directorate, shall be considered a positive factor for selection to positions of greater authority within all agencies described under subsection (a)(1)(B).

(4) PERSONNEL SECURITY STANDARDS.—The employment of personnel in the Directorate shall be in accordance with such personnel security standards for access to classified information and intelligence as the Secretary, in conjunction with the Director of Central

Intelligence, shall establish for this subsection.

(5) **PERFORMANCE EVALUATION.**—The Secretary shall evaluate the performance of all personnel detailed to the Directorate, or delegate such responsibility to the Under Secretary for Intelligence.

(g) **INTELLIGENCE COMMUNITY.**—Those portions of the Directorate of Intelligence under subsection (b)(1), and the intelligence-related components of agencies transferred by this division to the Department, including the United States Coast Guard, shall be—

(1) considered to be part of the United States intelligence community within the meaning of section 32 of the National Security Act of 1947 (50 U.S.C. 401a); and

(2) for budgetary purposes, within the National Foreign Intelligence Program.

SEC. 202. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) **ESTABLISHMENT.**—

(1) **DIRECTORATE.**—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) **UNDER SECRETARY.**—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **RESPONSIBILITIES.**—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Receiving relevant intelligence from the Directorate of Intelligence, law enforcement information, and other information in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant information, intelligence analysis, and vulnerability assessments (whether such information, analyses, or assessments are provided by the Department or others) to identify priorities and support protective measures by the Department, by the other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States.

(3) Developing a comprehensive national plan for securing the key resources and critical infrastructure in the United States.

(4) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate. This shall include, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, establishing procedures, mechanisms, or units for the purpose of utilizing intelligence to identify vulnerabilities and protective measures in—

(A) public health infrastructure;

(B) food and water storage, production and distribution;

(C) commerce systems, including banking and finance;

(D) energy systems, including electric power and oil and gas production and storage;

(E) transportation systems, including pipelines;

SA 4811. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Depart-

ment of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

DIVISION E—E-GOVERNMENT ACT OF 2002
SEC. 3001. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This division may be cited as the ‘‘E-Government Act of 2002’’.

(b) **TABLE OF CONTENTS.**—The table of contents for this division is as follows:

Sec. 3001. Short title; table of contents.

Sec. 3002. Findings and purposes.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 3101. Management and promotion of electronic Government services.

Sec. 3102. Conforming amendments.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 3201. Definitions.

Sec. 3202. Federal agency responsibilities.

Sec. 3203. Compatibility of Executive agency methods for use and acceptance of electronic signatures.

Sec. 3204. Federal Internet portal.

Sec. 3205. Federal courts.

Sec. 3206. Regulatory agencies.

Sec. 3207. Accessibility, usability, and preservation of Government information.

Sec. 3208. Privacy provisions.

Sec. 3209. Federal Information Technology workforce development.

Sec. 3210. Common protocols for geographic information systems.

Sec. 3211. Share-in-savings program improvements.

Sec. 3212. Integrated reporting study and pilot projects.

Sec. 3213. Community technology centers.

Sec. 3214. Enhancing crisis management through advanced information technology.

Sec. 3215. Disparities in access to the Internet.

Sec. 3216. Notification of obsolete or counterproductive provisions.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

Sec. 3301. Information security.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 3401. Authorization of appropriations.

Sec. 3402. Effective dates.

SEC. 3002. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) **PURPOSES.**—The purposes of this division are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decision-making by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 3101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) **IN GENERAL.**—Title 44, United States Code, is amended by inserting after chapter 35 the following:

‘‘CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

‘‘Sec.

‘‘3601. Definitions.

‘‘3602. Office of Electronic Government.

‘‘3603. Chief Information Officers Council.

‘‘3604. E-Government Fund.

‘‘3605. E-Government report.

‘‘§ 3601. Definitions

‘‘In this chapter, the definitions under section 3502 shall apply, and the term—

‘‘(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’—

“(A) means—

“(i) a strategic information asset base, which defines the mission;

“(ii) the information necessary to perform the mission;

“(iii) the technologies necessary to perform the mission; and

“(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

“(B) includes—

“(i) a baseline architecture;

“(ii) a target architecture; and

“(iii) a sequencing plan;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

“(8) ‘tribal government’ means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“§ 3602. Office of Electronic Government

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

“(2) all of the functions assigned to the Director under title XXXII of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104-106; 40 U.S.C. 1401 et seq.);

“(3) section 552a of title 5 (commonly referred to as the Privacy Act);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

“(5) the Government Information Security Reform Act; and

“(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information;

“(6) accessibility of information technology for persons with disabilities; and

“(7) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

“(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

“(C) may include—

“(i) development of innovative models—

“(I) for electronic Government management and Government information technology contracts; and

“(II) that may be developed through focused discussions or using separately sponsored research;

“(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

“(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

“(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

“(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

“(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

“(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

“(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

“(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

“(B) ensuring compliance with those standards through the budget review process and other means.

“(14) Oversee the development of enterprise architectures within and across agencies.

“(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

“(16) Administer the Office of Electronic Government established under section 3602.

“(17) Assist the Director in preparing the E-Government report established under section 3605.

“(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all

functions under the E-Government Act of 2002.

“§ 3603. Chief Information Officers Council

“(1) There is established in the executive branch a Chief Information Officers Council.

“(b) The members of the Council shall be as follows:

“(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

“(2) The Administrator of the Office of Electronic Government.

“(3) The Administrator of the Office of Information and Regulatory Affairs.

“(4) The chief information officer of each agency described under section 901(b) of title 31.

“(5) The chief information officer of the Central Intelligence Agency.

“(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

“(7) Any other officer or employee of the United States designated by the chairperson.

“(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

“(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

“(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

“(3) The Administrator of General Services shall provide administrative and other support for the Council.

“(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

“(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

“(f) The Council shall perform functions that include the following:

“(1) Develop recommendations for the Director on Government information resources management policies and requirements.

“(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

“(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

“(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title XXXII of the E-Government Act of 2002.

“(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

“(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

“§ 3604. E-Government Fund

“(a)(1) There is established in the Treasury of the United States the E-Government Fund.

“(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

“(3) Projects under this subsection may include efforts to—

“(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

“(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

“(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

“(b)(1) The Administrator shall—

“(A) establish procedures for accepting and reviewing proposals for funding;

“(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

“(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

“(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

“(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agency-wide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

“(B) Projects shall adhere to fundamental capital planning and investment control processes.

“(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

“(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

“(E) Agencies shall assess the results of funded projects.

“(c) In determining which proposals to recommend for funding, the Administrator—

“(1) shall consider criteria that include whether a proposal—

“(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

“(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

“(C) ensures proper security and protects privacy;

“(D) is interagency in scope, including projects implemented by a primary or single agency that—

“(i) could confer benefits on multiple agencies; and

“(ii) have the support of other agencies; and

“(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

“(2) may also rank proposals based on criteria that include whether a proposal—

“(A) has Governmentwide application or implications;

“(B) has demonstrated support by the public to be served;

“(C) integrates Federal with State, local, or tribal approaches to service delivery;

“(D) identifies resource commitments from nongovernmental sectors;

“(E) identifies resource commitments from the agencies involved;

“(F) uses web-based technologies to achieve objectives;

“(G) identifies records management and records access strategies;

“(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

“(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

“(J) supports integrated service delivery;

“(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

“(L) is new or innovative and does not supplant existing funding streams within agencies.

“(d) The Fund may be used to fund the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

“(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

“(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

“(2) The report under paragraph (1) shall describe—

“(A) all projects which the Director has approved for funding from the Fund; and

“(B) the results that have been achieved to date for these funded projects.

“(g)(1) There are authorized to be appropriated to the Fund—

“(A) \$45,000,000 for fiscal year 2003;

“(B) \$50,000,000 for fiscal year 2004;

“(C) \$100,000,000 for fiscal year 2005;

“(D) \$150,000,000 for fiscal year 2006; and

“(E) such sums as are necessary for fiscal year 2007.

“(2) Funds appropriated under this subsection shall remain available until expended.

“§ 3605. E-Government report

“(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(b) The report under subsection (a) shall contain—

“(1) a summary of the information reported by agencies under section 3202(f) of the E-Government Act of 2002;

“(2) the information required to be reported by section 3604(f); and

“(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“36. Management and Promotion of Electronic Government Services .. 3601”.
SEC. 3102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

“SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

“The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

“Sec. 113. Electronic Government and information technologies.”.

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

“(5) Chair the Chief Information Officers Council established under section 3603 of title 44.”.

(c) OFFICE OF ELECTRONIC GOVERNMENT.—(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

“§ 507. Office of Electronic Government

“The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

“507. Office of Electronic Government.”.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 3201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 3202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this division (including the amendments

made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this division by the Director, and the information technology standards promulgated under this division by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 3204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this division shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) SPONSORED ACTIVITIES.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this division by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-GOVERNMENT STATUS REPORT.—

(1) IN GENERAL.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) SUBMISSION.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) USE OF TECHNOLOGY.—Nothing in this division supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) NATIONAL SECURITY SYSTEMS.—

(1) INAPPLICABILITY.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

(2) APPLICABILITY.—Sections 3202, 3203, 3210, and 3214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 3203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105-277; 112 Stat. 2681-749 through 2681-751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, \$8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3204. FEDERAL INTERNET PORTAL.

(a) IN GENERAL.—

(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration \$15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 3205. FEDERAL COURTS.

(a) **INDIVIDUAL COURT WEBSITES.**—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) **MAINTENANCE OF DATA ONLINE.**—

(1) **UPDATE OF INFORMATION.**—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) **CLOSED CASES.**—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) **ELECTRONIC FILINGS.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) **EXCEPTIONS.**—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) **PRIVACY AND SECURITY CONCERNS.**—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) **DOCKETS WITH LINKS TO DOCUMENTS.**—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all

filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) **COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.**—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary."

(f) **TIME REQUIREMENTS.**—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) **DEFERRAL.**—

(1) **IN GENERAL.**—

(A) **ELECTION.**—

(i) **NOTIFICATION.**—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) **CONTENTS.**—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) **EXCEPTION.**—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) **REPORT.**—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 3206. REGULATORY AGENCIES.

(a) **PURPOSES.**—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) **INFORMATION PROVIDED BY AGENCIES ONLINE.**—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) **SUBMISSIONS BY ELECTRONIC MEANS.**—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) **ELECTRONIC DOCKETING.**—

(1) **IN GENERAL.**—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for

rulemakings under section 553 of title 5, United States Code.

(2) **INFORMATION AVAILABLE.**—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) **TIME LIMITATION.**—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 3207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) **PURPOSE.**—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) **DEFINITIONS.**—In this section, the term—

(1) "Committee" means the Interagency Committee on Government Information established under subsection (c); and

(2) "directory" means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) **INTERAGENCY COMMITTEE.**—

(1) **ESTABLISHMENT.**—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) **MEMBERSHIP.**—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) **FUNCTIONS.**—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) **TERMINATION.**—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) **CATEGORIZING OF INFORMATION.**—

(1) **COMMITTEE FUNCTIONS.**—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 3202(g).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any

guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) \$2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 3204.

(2) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

- (i) agency librarians;
- (ii) information technology managers;
- (iii) program managers;
- (iv) records managers;
- (v) Federal depository librarians; and
- (vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) STANDARDS FOR AGENCY WEBSITES.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

- (A) speed of retrieval of search results;
- (B) the relevance of the results;
- (C) tools to aggregate and disaggregate data; and
- (D) security protocols to protect information.

SEC. 3208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United

States Code, (commonly referred to as the Privacy Act).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 3209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this section, \$7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term “geographic information” means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 3211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

(1) in subsection (a)—

(A) by striking “the heads of two executive agencies to carry out” and inserting “heads of executive agencies to carry out a total of 5 projects under”;

(B) by striking “and” at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting “; and”; and

(D) by adding at the end the following:

“(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

“(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under

paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

“(i) the total amount of the savings; over
“(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

“(B) to use the retained amount to acquire additional information technology.”;

(2) in subsection (b)—

(A) by inserting “a project under” after “authorized to carry out”; and

(B) by striking “carry out one project and”; and

(3) in subsection (c), by inserting before the period “and the Administrator for the Office of Electronic Government”; and

(4) by inserting after subsection (c) the following:

“(d) REPORT.—

“(1) IN GENERAL.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(2) CONTENTS.—The report under paragraph (1) shall include—

“(A) a description of the reduced costs and other measurable benefits of the pilot projects;

“(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

“(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.”.

SEC. 3212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) DEFINITIONS.—In this section, the term—

(1) “agency” means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) CONTENTS.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) IN GENERAL.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) GOALS OF PILOT PROJECTS.—

(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) GOALS.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) PRIVACY PROTECTIONS.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.

(a) PURPOSES.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) **ONLINE TUTORIAL.**—

(1) **IN GENERAL.**—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Services, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and
(B) provides a guide to available online resources.

(2) **DISTRIBUTION.**—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) **PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.**—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

- (1) \$2,000,000 in fiscal year 2003;
- (2) \$2,000,000 in fiscal year 2004; and
- (3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 3214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) **PURPOSE.**—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) **IN GENERAL.**—

(1) **STUDY ON ENHANCEMENT OF CRISIS RESPONSE.**—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) **CONTENTS.**—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

- (i) the Federal Emergency Management Agency; and
- (ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) **REPORT.**—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

- (A) the Committee on Governmental Affairs of the Senate; and
- (B) the Committee on Government Reform of the House of Representatives.

(4) **INTERAGENCY COOPERATION.**—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) **PILOT PROJECTS.**—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 3215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) **STUDY AND REPORT.**—

(1) **STUDY.**—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) **CONTENTS.**—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) **RECOMMENDATIONS.**—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the National Science Foundation \$950,000 in fiscal year 2003 to carry out this section.

SEC. 3216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this division (including any amendment made by this division) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

SEC. 3301. INFORMATION SECURITY.

(a) **ADDITION OF SHORT TITLE.**—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

“SEC. 1060. SHORT TITLE.

“This subtitle may be cited as the ‘Government Information Security Reform Act’.”

(b) **CONTINUATION OF AUTHORITY.**—

(1) **IN GENERAL.**—Section 3536 of title 44, United States Code, is repealed.

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title XXXI or XXXII, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles XXXI and XXXII for each of fiscal years 2003 through 2007.

SEC. 3402. EFFECTIVE DATES.

(a) **TITLES XXXI AND XXXII.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), titles XXXI and XXXII and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) **IMMEDIATE ENACTMENT.**—Sections 3207, 3214, 3215, and 3216 shall take effect on the date of enactment of this Act.

(b) **TITLES XXXIII AND XXXIV.**—Title XXXIII and this title shall take effect on the date of enactment of this Act.

SA 4812. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 10, strike all through page 84, line 7, and insert the following:

(5) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

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), 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. DEFINITION.

SA 4813. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 9 and all that follows through page 90, line 2, and insert the following:

SEC. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(b) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

“SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “In-

spector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve the national security; or

“(C) prevent significant impairment to the national interests of the United States.

“(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

“(A) the President of the Senate;

“(B) the Speaker of the House of Representatives;

“(C) the Committee on Governmental Affairs of the Senate;

“(D) the Committee on Government Reform of the House of Representatives; and

“(E) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the

subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.”.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4814. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 9 and all that follows through page 90, line 2, and insert the following:

SEC. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(b) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ASSISTANT IG.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Civil Rights and Civil Liberties who shall have experience and demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) DUTIES.—The Assistant Inspector General for Civil Rights and Civil Liberties shall—

(A) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) if appropriate, investigate such complaints in a timely manner;

(C) publicize in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the official; and

(ii) instructions on how to contact the official; and

(D) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection;

(ii) detailing any civil rights abuses under paragraph (1); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

“SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the ‘Inspector General’) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the ‘Secretary’) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.”.

“(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

“(A) the President of the Senate;

“(B) the Speaker of the House of Representatives;

“(C) the Committee on Governmental Affairs of the Senate;

“(D) the Committee on Government Reform of the House of Representatives; and

“(E) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits

performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.”.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4815. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows

On page 15, after line 23, insert the following:

SEC. 105. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner

that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SA 4816. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, after line 23, insert the following:

SEC. 105. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SA 4817. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, line 14, strike all through page 110, line 4.

SA 4818. Mr. LIEBERMAN SUBMITTED AN AMENDMENT INTENDED TO BE PROPOSED TO AMENDMENT SA 4738 PROPOSED BY Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN TO THE BILL H.R. 5005, TO ESTABLISH THE DEPARTMENT of Homeland Security, and for other purposes;

which was ordered to lie on the table; as follows:

On page 14, strike lines 6 through 12, and insert the following:

(e) OTHER OFFICERS.—

(1) IN GENERAL.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President:

- (A) A Director of the Secret Service.
- (B) A Chief Information Officer.
- (C) A Chief Human Capital Officer.
- (2) CHIEF FINANCIAL OFFICER.—

(A) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(B) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(i) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(ii) by inserting after subparagraph (F) the following:

“(G) The Department of Homeland Security.”

(3) SECTION 603 NOT EFFECTIVE.—Notwithstanding any other provision of this Act, including any effective date provision, section 603 shall not take effect.

SA 4819. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, strike lines 10–24 and all that follows through page 53, line 14.

SA 4820. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, strike line 22 and all that follows through page 43, line 14, and insert the following:

SEC. 305. RESEARCH IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) AUTHORIZATION.—The Secretary may carry out human health biodefense-related biological, biomedical, and infectious disease research and development (including vaccine research and development) in collaboration with the Secretary of Health and Human Services.

(b) JOINT STRATEGIC PRIORITIZATION AGREEMENTS.—

(1) IN GENERAL.—Research supported by funding appropriated to the National Institutes of Health for bioterrorism research and related facilities development shall be conducted through the National Institutes of Health under joint strategic prioritization agreements between the Secretary and the Secretary of Health and Human Services.

(2) GENERAL RESEARCH PRIORITIES.—The Secretary shall have the authority to estab-

lish general research priorities, which shall be embodied in the agreements under paragraph (1).

(3) SPECIFIC SCIENTIFIC RESEARCH AGENDA.—The specific scientific research agenda to implement agreements under paragraph (1) shall be developed by the Secretary of Health and Human Services, who shall consult the Secretary to ensure that the agreements conform with homeland security priorities.

(4) MANAGEMENT OF RESEARCH PROGRAMS.—All research programs established under the agreements under paragraph (1) shall be managed and awarded by the Director of the National Institutes of Health consistent with those agreements.

(5) TRANSFER OF FUNDS.—The Secretary may transfer funds to the Department of Health and Human Services in connection with the agreements under paragraph (1).

SA 4821. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Privacy, Civil Rights, and Inspector General

SEC. 708. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services.”

(b) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve the national security; or

“(C) prevent significant impairment to the national interests of the United States.

“(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

“(A) the President of the Senate;

“(B) the Speaker of the House of Representatives;

“(C) the Committee on Governmental Affairs of the Senate;

“(D) the Committee on Government Reform of the House of Representatives; and

“(E) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.”

(d) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4822. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Privacy, Civil Rights, and Inspector General

SEC. 708. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services.”

(b) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ASSISTANT IG.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Civil Rights and Civil Liberties who shall have experience and demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) DUTIES.—The Assistant Inspector General for Civil Rights and Civil Liberties shall—

(A) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) if appropriate, investigate such complaints in a timely manner;

(C) publicize in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the official; and

(ii) instructions on how to contact the official; and

(D) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection;

(ii) detailing any civil rights abuses under paragraph (1); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

“SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the ‘Inspector General’) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the ‘Secretary’) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.”.

“(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

“(A) the President of the Senate;

“(B) the Speaker of the House of Representatives;

“(C) the Committee on Governmental Affairs of the Senate;

“(D) the Committee on Government Reform of the House of Representatives; and

“(E) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.”.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4823. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, strike lines 12–15.

SA 4824. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (FOR HIMSELF, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, strike lines 12–15.

On page 52, strike lines 10–24 and all that follows through page 53, line 14.

SA 4803. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil

Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department; or

(ii) independent contractors retained by the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department; or

(iii) independent contractors employed by the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) **ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.**—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.

“(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

“(i) the President of the Senate;

“(ii) the Speaker of the House of Representatives;

“(iii) the Committee on Governmental Affairs of the Senate;

“(iv) the Committee on Government Reform of the House of Representatives; and

“(v) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.”

(e) **TECHNICAL AND CONFORMING AMENDMENTS.**—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4804. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) **IN GENERAL.**—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **RESPONSIBILITIES.**—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) **IN GENERAL.**—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) **RESPONSIBILITIES.**—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(C) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(D) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(E) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.

“(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

“(i) the President of the Senate;

“(ii) the Speaker of the House of Representatives;

“(iii) the Committee on Governmental Affairs of the Senate;

“(iv) the Committee on Government Reform of the House of Representatives; and

“(v) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Home-

land Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.”

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4805. Mr. FEINGOLD (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to be lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be

appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department; or

(ii) any unit of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.

“(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ‘Assistant Inspector General’), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

“(i) the President of the Senate;

“(ii) the Speaker of the House of Representatives;

“(iii) the Committee on Governmental Affairs of the Senate;

“(iv) the Committee on Government Reform of the House of Representatives; and

“(v) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

- “(1) the President of the Senate;
- “(2) the Speaker of the House of Representatives;
- “(3) the Committee on Governmental Affairs of the Senate; and
- “(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.”

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

- (1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and
- (2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4806. Mr. FEINGOLD (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to be lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

- (1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;
- (2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;
- (3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;
- (4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

- (1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;
- (2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services.”

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the “Assistant Inspector General”), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

- (i) employees and officials of the Department;
- (ii) independent contractors retained by the Department; or
- (iii) grantees of the Department;
- (B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

- (i) the Department;
- (ii) any unit of the Department;
- (iii) independent contractors employed by the Department; or
- (iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department’s civil rights

and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or

investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve vital national security interests; or

“(C) prevent significant impairment to the national interests of the United States.

“(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ‘Assistant Inspector General’), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

“(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary’s exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

“(i) the President of the Senate;

“(ii) the Speaker of the House of Representatives;

“(iii) the Committee on Governmental Affairs of the Senate;

“(iv) the Committee on Government Reform of the House of Representatives; and

“(v) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General’s responsibilities under this section shall be exercised by the Assistant Inspector General.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated under the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.”

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4807. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to be lie on the table; as follows:

On page 162, strike lines 1 through 8.

SA 4825. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Homeland Security and Combating Terrorism Act of 2002”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

(1) Division A—National Homeland Security and Combating Terrorism.

(2) Division B—Immigration Reform, Accountability, and Security Enhancement Act of 2002.

(3) Division C—Federal Workforce Improvement.

(4) Division D—E-Government Act of 2002.

(5) Division E—Flight and Cabin Security on Passenger Aircraft.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

Sec. 100. Definitions.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

Sec. 101. Establishment of the Department of Homeland Security.

Sec. 102. Secretary of Homeland Security.

Sec. 103. Deputy Secretary of Homeland Security.

Sec. 104. Under Secretary for Management.

Sec. 105. Assistant Secretaries.

Sec. 106. Inspector General.

Sec. 107. Chief Financial Officer.

Sec. 108. Chief Information Officer.

Sec. 109. General Counsel.

Sec. 110. Civil Rights Officer.

Sec. 111. Privacy Officer.

Sec. 112. Chief Human Capital Officer.

Sec. 113. Office of International Affairs.

Sec. 114. Executive Schedule positions.

Subtitle B—Establishment of Directorates and Offices

Sec. 131. Directorate of Border and Transportation Protection.

Sec. 132. Directorate of Intelligence.

Sec. 133. Directorate of Critical Infrastructure Protection.

Sec. 134. Directorate of Emergency Preparedness and Response.

Sec. 135. Directorate of Science and Technology.

Sec. 136. Directorate of Immigration Affairs.

Sec. 137. Office for State and Local Government Coordination.

Sec. 138. United States Secret Service.

Sec. 139. Border Coordination Working Group.

Sec. 140. Office for National Capital Region Coordination.

Sec. 141. Executive Schedule positions.

Subtitle C—National Emergency Preparedness Enhancement

Sec. 151. Short title.

Sec. 152. Preparedness information and education.

Sec. 153. Pilot program.

Sec. 154. Designation of National Emergency Preparedness Week.

Subtitle D—Miscellaneous Provisions

Sec. 161. National Bio-Weapons Defense Analysis Center.

Sec. 162. Review of food safety.

Sec. 163. Exchange of employees between agencies and State or local governments.

Sec. 164. Whistleblower protection for Federal employees who are airport security screeners.

Sec. 165. Whistleblower protection for certain airport employees.

Sec. 166. Bioterrorism preparedness and response division.

Sec. 167. Coordination with the Department of Health and Human Services under the Public Health Service Act.

Sec. 168. Rail security enhancements.

Sec. 169. Grants for firefighting personnel.

Sec. 170. Review of transportation security enhancements.

Sec. 171. Interoperability of information systems.

Sec. 172. Extension of customs user fees.

Sec. 173. Conforming amendments regarding laws administered by the Secretary of Veterans Affairs.

Sec. 174. Prohibition on contracts with corporate expatriates.

Sec. 175. Transfer of certain agricultural inspection functions of the Department of Agriculture.

Sec. 176. Coordination of information and information technology.

Subtitle E—Transition Provisions

Sec. 181. Definitions.

Sec. 182. Transfer of agencies.

Sec. 183. Transitional authorities.

Sec. 184. Incidental transfers and transfer of related functions.

Sec. 185. Implementation progress reports and legislative recommendations.

- Sec. 186. Transfer and allocation.
 Sec. 187. Savings provisions.
 Sec. 188. Transition plan.
 Sec. 189. Use of appropriated funds.
 Subtitle F—Administrative Provisions
 Sec. 191. Reorganizations and delegations.
 Sec. 192. Reporting requirements.
 Sec. 193. Environmental protection, safety, and health requirements.
 Sec. 194. Labor standards.
 Sec. 195. Procurement of temporary and intermittent services.
 Sec. 196. Preserving non-homeland security mission performance.
 Sec. 197. Future Years Homeland Security Program.
 Sec. 198. Protection of voluntarily furnished confidential information.
 Sec. 199. Establishment of human resources management system.
 Sec. 199A. Labor-management relations.
 Sec. 199B. Authorization of appropriations.
 TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS
 Sec. 201. Law enforcement powers of Inspector General agents.
 TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY
 Subtitle A—Temporary Flexibility for Certain Procurements
 Sec. 301. Definition.
 Sec. 302. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
 Sec. 303. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
 Sec. 304. Increased micro-purchase threshold for certain procurements.
 Sec. 305. Application of certain commercial items authorities to certain procurements.
 Sec. 306. Use of streamlined procedures.
 Sec. 307. Review and report by Comptroller General.
 Subtitle B—Other Matters
 Sec. 311. Identification of new entrants into the Federal marketplace.
 TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES
 Sec. 401. Establishment of Commission.
 Sec. 402. Purposes.
 Sec. 403. Composition of the Commission.
 Sec. 404. Functions of the Commission.
 Sec. 405. Powers of the Commission.
 Sec. 406. Staff of the Commission.
 Sec. 407. Compensation and travel expenses.
 Sec. 408. Security clearances for Commission members and staff.
 Sec. 409. Reports of the Commission; termination.
 Sec. 410. Authorization of appropriations.
 TITLE V—EFFECTIVE DATE
 Sec. 501. Effective date.
 DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002
 TITLE X—SHORT TITLE AND DEFINITIONS
 Sec. 1001. Short title.
 Sec. 1002. Definitions.
 TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS
 Subtitle A—Organization
 Sec. 1101. Abolition of INS.
 Sec. 1102. Establishment of Directorate of Immigration Affairs.
 Sec. 1103. Under Secretary of Homeland Security for Immigration Affairs.
 Sec. 1104. Bureau of Immigration Services.
 Sec. 1105. Bureau of Enforcement and Border Affairs.
 Sec. 1106. Office of the Ombudsman within the Directorate.
 Sec. 1107. Office of Immigration Statistics within the Directorate.
 Sec. 1108. Clerical amendments.
 Subtitle B—Transition Provisions
 Sec. 1111. Transfer of functions.
 Sec. 1112. Transfer of personnel and other resources.
 Sec. 1113. Determinations with respect to functions and resources.
 Sec. 1114. Delegation and reservation of functions.
 Sec. 1115. Allocation of personnel and other resources.
 Sec. 1116. Savings provisions.
 Sec. 1117. Interim service of the Commissioner of Immigration and Naturalization.
 Sec. 1118. Executive Office for Immigration review authorities not affected.
 Sec. 1119. Other authorities not affected.
 Sec. 1120. Transition funding.
 Subtitle C—Miscellaneous Provisions
 Sec. 1121. Funding adjudication and naturalization services.
 Sec. 1122. Application of Internet-based technologies.
 Sec. 1123. Alternatives to detention of asylum seekers.
 Subtitle D—Effective Date
 Sec. 1131. Effective date.
 TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION
 Sec. 1201. Short title.
 Sec. 1202. Definitions.
 Subtitle A—Structural Changes
 Sec. 1211. Responsibilities of the Office of Refugee Resettlement with respect to unaccompanied alien children.
 Sec. 1212. Establishment of Interagency Task Force on Unaccompanied Alien Children.
 Sec. 1213. Transition provisions.
 Sec. 1214. Effective date.
 Subtitle B—Custody, Release, Family Reunification, and Detention
 Sec. 1221. Procedures when encountering unaccompanied alien children.
 Sec. 1222. Family reunification for unaccompanied alien children with relatives in the United States.
 Sec. 1223. Appropriate conditions for detention of unaccompanied alien children.
 Sec. 1224. Repatriated unaccompanied alien children.
 Sec. 1225. Establishing the age of an unaccompanied alien child.
 Sec. 1226. Effective date.
 Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel
 Sec. 1231. Right of unaccompanied alien children to guardians ad litem.
 Sec. 1232. Right of unaccompanied alien children to counsel.
 Sec. 1233. Effective date; applicability.
 Subtitle D—Strengthening Policies for Permanent Protection of Alien Children
 Sec. 1241. Special immigrant juvenile visa.
 Sec. 1242. Training for officials and certain private parties who come into contact with unaccompanied alien children.
 Sec. 1243. Effective date.
 Subtitle E—Children Refugee and Asylum Seekers
 Sec. 1251. Guidelines for children's asylum claims.
 Sec. 1252. Unaccompanied refugee children.
 Subtitle F—Authorization of Appropriations
 Sec. 1261. Authorization of appropriations.
 TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS
 Subtitle A—Structure and Function
 Sec. 1301. Establishment.
 Sec. 1302. Director of the agency.
 Sec. 1303. Board of Immigration Appeals.
 Sec. 1304. Chief Immigration Judge.
 Sec. 1305. Chief Administrative Hearing Officer.
 Sec. 1306. Removal of judges.
 Sec. 1307. Authorization of appropriations.
 Subtitle B—Transfer of Functions and Savings Provisions
 Sec. 1311. Transition provisions.
 Subtitle C—Effective Date
 Sec. 1321. Effective date.
 DIVISION C—FEDERAL WORKFORCE IMPROVEMENT
 TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS
 Sec. 2101. Short title.
 Sec. 2102. Agency Chief Human Capital Officers.
 Sec. 2103. Chief Human Capital Officers Council.
 Sec. 2104. Strategic human capital management.
 Sec. 2105. Effective date.
 TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT
 Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and program performance reports.
 Sec. 2202. Reform of the competitive service hiring process.
 Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
 Sec. 2204. Student volunteer transit subsidy.
 TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE
 Sec. 2301. Repeal of recertification requirements of senior executives.
 Sec. 2302. Adjustment of limitation on total annual compensation.
 TITLE XXIV—ACADEMIC TRAINING
 Sec. 2401. Academic training.
 Sec. 2402. Modifications to National Security Education Program.
 Sec. 2403. Compensatory time off for travel.
 DIVISION D—E-GOVERNMENT ACT OF 2002
 TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES
 Sec. 3001. Short title.
 Sec. 3002. Findings and purposes.
 TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES
 Sec. 3101. Management and promotion of electronic Government services.
 Sec. 3102. Conforming amendments.
 TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES
 Sec. 3201. Definitions.
 Sec. 3202. Federal agency responsibilities.
 Sec. 3203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
 Sec. 3204. Federal Internet portal.
 Sec. 3205. Federal courts.
 Sec. 3206. Regulatory agencies.
 Sec. 3207. Accessibility, usability, and preservation of Government information.

- Sec. 3208. Privacy provisions.
 Sec. 3209. Federal information technology workforce development.
 Sec. 3210. Common protocols for geographic information systems.
 Sec. 3211. Share-in-savings program improvements.
 Sec. 3212. Integrated reporting study and pilot projects.
 Sec. 3213. Community technology centers.
 Sec. 3214. Enhancing crisis management through advanced information technology.
 Sec. 3215. Disparities in access to the Internet.
 Sec. 3216. Notification of obsolete or counterproductive provisions.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

- Sec. 3301. Information security.
TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES
 Sec. 3401. Authorization of appropriations.
 Sec. 3402. Effective dates.

DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT
TITLE XLI—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

- Sec. 4101. Short title.
 Sec. 4102. Findings.
 Sec. 4103. Federal flight deck officer program.
 Sec. 4104. Cabin security.
 Sec. 4105. Prohibition on opening cockpit doors in flight.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM
SEC. 100. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) **AGENCY.**—Except for purposes of subtitle E of title I, the term “agency”—

- (A) means—
 (i) an Executive agency as defined under section 105 of title 5, United States Code;
 (ii) a military department as defined under section 102 of title 5, United States Code;
 (iii) the United States Postal Service; and
 (B) does not include the General Accounting Office.

(2) **ASSETS.**—The term “assets” includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) **DEPARTMENT.**—The term “Department” means the Department of Homeland Security established under title I.

(4) **ENTERPRISE ARCHITECTURE.**—The term “enterprise architecture”—

- (A) means—
 (i) a strategic information asset base, which defines the mission;
 (ii) the information necessary to perform the mission;
 (iii) the technologies necessary to perform the mission; and
 (iv) the transitional processes for implementing new technologies in response to changing mission needs; and
 (B) includes—
 (i) a baseline architecture;
 (ii) a target architecture; and
 (iii) a sequencing plan.

(5) **FEDERAL TERRORISM PREVENTION AND RESPONSE AGENCY.**—The term “Federal terrorism prevention and response agency” means any Federal department or agency charged with responsibilities for carrying out a homeland security strategy.

(6) **FUNCTIONS.**—The term “functions” includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(7) **HOMELAND.**—The term “homeland” means the United States, in a geographic sense.

(8) **LOCAL GOVERNMENT.**—The term “local government” has the meaning given under section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288).

(9) **PERSONNEL.**—The term “personnel” means officers and employees.

(10) **RISK ANALYSIS AND RISK MANAGEMENT.**—The term “risk analysis and risk management” means the assessment, analysis, management, mitigation, and communication of homeland security threats, vulnerabilities, criticalities, and risks.

(11) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(12) **UNITED STATES.**—The term “United States”, when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288)), any possession of the United States, and any waters within the jurisdiction of the United States.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) **IN GENERAL.**—There is established the Department of National Homeland Security.

(b) **EXECUTIVE DEPARTMENT.**—Section 101 of title 5, United States Code, is amended by adding at the end the following:

“The Department of Homeland Security.”.

(c) **MISSION OF DEPARTMENT.**—

- (1) **HOMELAND SECURITY.**—The mission of the Department is to—
 (A) promote homeland security, particularly with regard to terrorism;
 (B) prevent terrorist attacks or other homeland threats within the United States;
 (C) reduce the vulnerability of the United States to terrorism, natural disasters, and other homeland threats; and
 (D) minimize the damage, and assist in the recovery, from terrorist attacks or other natural or man-made crises that occur within the United States.

(2) **OTHER MISSIONS.**—The Department shall be responsible for carrying out the other functions, and promoting the other missions, of entities transferred to the Department as provided by law.

(d) **SEAL.**—The Secretary shall procure a proper seal, with such suitable inscriptions and devices as the President shall approve. This seal, to be known as the official seal of the Department of Homeland Security, shall be kept and used to verify official documents, under such rules and regulations as the Secretary may prescribe. Judicial notice shall be taken of the seal.

SEC. 102. SECRETARY OF HOMELAND SECURITY.

(a) **IN GENERAL.**—The Secretary of Homeland Security shall be the head of the Department. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **RESPONSIBILITIES.**—The responsibilities of the Secretary shall be the following:

(1) To develop policies, goals, objectives, priorities, and plans for the United States for the promotion of homeland security, particularly with regard to terrorism.

(2) To administer, carry out, and promote the other established missions of the entities transferred to the Department.

(3) To develop a comprehensive strategy for combating terrorism and the homeland security response.

(4) To make budget recommendations relating to a homeland security strategy, border and transportation security, infrastruc-

ture protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

(5) To plan, coordinate, and integrate those Federal Government activities relating to border and transportation security, critical infrastructure protection, all-hazards emergency preparedness, response, recovery, and mitigation.

(6) To serve as a national focal point to analyze all information available to the United States related to threats of terrorism and other homeland threats.

(7) To establish and manage a comprehensive risk analysis and risk management program that directs and coordinates the supporting risk analysis and risk management activities of the Directorates and ensures coordination with entities outside the Department engaged in such activities.

(8) To identify and promote key scientific and technological advances that will enhance homeland security.

(9) To include, as appropriate, State and local governments and other entities in the full range of activities undertaken by the Department to promote homeland security, including—

(A) providing State and local government personnel, agencies, and authorities, with appropriate intelligence information, including warnings, regarding threats posed by terrorism in a timely and secure manner;

(B) facilitating efforts by State and local law enforcement and other officials to assist in the collection and dissemination of intelligence information and to provide information to the Department, and other agencies, in a timely and secure manner;

(C) coordinating with State, regional, and local government personnel, agencies, and authorities and, as appropriate, with the private sector, other entities, and the public, to ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities;

(D) consulting State and local governments, and other entities as appropriate, in developing a homeland security strategy; and

(E) systematically identifying and removing obstacles to developing effective partnerships between the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities, the private sector, other entities, and the public to secure the homeland.

(10)(A) To consult and coordinate with the Secretary of Defense and the governors of the several States regarding integration of the United States military, including the National Guard, into all aspects of a homeland security strategy and its implementation, including detection, prevention, protection, response, and recovery.

(B) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to executing a homeland security strategy.

(C) To consult and coordinate with the Secretary of Defense regarding the training of personnel to respond to terrorist attacks involving chemical or biological agents.

(11) To seek to ensure effective day-to-day coordination of homeland security operations, and establish effective mechanisms for such coordination, among the elements constituting the Department and with other involved and affected Federal, State, and local departments and agencies.

(12) To administer the Homeland Security Advisory System, exercising primary responsibility for public threat advisories, and (in coordination with other agencies) providing specific warning information to State and

local government personnel, agencies and authorities, the private sector, other entities, and the public, and advice about appropriate protective actions and countermeasures.

(13) To conduct exercise and training programs for employees of the Department and other involved agencies, and establish effective command and control procedures for the full range of potential contingencies regarding United States homeland security, including contingencies that require the substantial support of military assets.

(14) To annually review, update, and amend the Federal response plan for homeland security and emergency preparedness with regard to terrorism and other manmade and natural disasters.

(15) To direct the acquisition and management of all of the information resources of the Department, including communications resources.

(16) To endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable.

(17) In furtherance of paragraph (16), to oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation.

(18) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) To report to Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 185; and

(B) each biennial report required under section 192(b).

(C) VISA ISSUANCE BY THE SECRETARY.—

(1) DEFINITION.—In this subsection, the term “consular officer” has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(2) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided under paragraph (3), the Secretary—

(A) 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, 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

(B)(i) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(ii) shall have authority to confer or impose upon any officer or employee of the United States, 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 subparagraph (A).

(3) AUTHORITY OF THE SECRETARY OF STATE.—

(A) IN GENERAL.—The Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State considers such refusal necessary or advisable in the foreign policy or security interests of the United States.

(B) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(i) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(15)(A)).

(ii) 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)).

(iii) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(iv) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(v) Section 212(a)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(vi) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(vii) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(viii) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(ix) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(x) Section 104 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034).

(xi) Section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105-277).

(xii) Section 103(f) of the Chemical Weapons Convention Implementation Act of 1998 (112 Stat. 2681-865).

(xiii) Section 801 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2002 and 2001 (113 Stat. 1501A-468).

(xiv) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107-115).

(xv) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(xvi) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 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).

(4) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(5) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(A) IN GENERAL.—The Secretary is authorized to assign employees of the Department to diplomatic and consular posts abroad to perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(B) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in subparagraph (A) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional 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).

(C) TRAINING AND HIRING.—

(i) IN GENERAL.—The Secretary shall ensure that any employees of the Department assigned to perform functions described under subparagraph (A) and, as appropriate, consular officers, shall be provided all necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(ii) FOREIGN LANGUAGE PROFICIENCY.—Before assigning employees of the Department to perform the functions described under subparagraph (A), the Secretary shall promulgate regulations establishing foreign language proficiency requirements for employees of the Department performing the functions described under subparagraph (A) and providing that preference shall be given to individuals who meet such requirements in hiring employees for the performance of such functions.

(iii) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in clause (i).

(6) 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.

(7) 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.

(d) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

“(5) the Secretary of Homeland Security; and

“(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.”

SEC. 103. DEPUTY SECRETARY OF HOMELAND SECURITY.

(a) IN GENERAL.—There shall be in the Department a Deputy Secretary of Homeland Security, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Deputy Secretary of Homeland Security shall—

(1) assist the Secretary in the administration and operations of the Department;

(2) perform such responsibilities as the Secretary shall prescribe; and

(3) act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

SEC. 104. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—There shall be in the Department an Under Secretary for Management, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Under Secretary for Management shall report to the Secretary, who may assign to the Under Secretary such functions related to the management and administration of the Department as the Secretary may prescribe, including—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

- (2) procurement;
- (3) human resources and personnel;
- (4) information technology and communications systems;
- (5) facilities, property, equipment, and other material resources;
- (6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and
- (7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 105. ASSISTANT SECRETARIES.

(a) IN GENERAL.—There shall be in the Department not more than 5 Assistant Secretaries (not including the 2 Assistant Secretaries appointed under division B), each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall describe the general responsibilities that such appointee will exercise upon taking office.

(2) ASSIGNMENT.—Subject to paragraph (1), the Secretary shall assign to each Assistant Secretary such functions as the Secretary considers appropriate.

SEC. 106. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary

of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve the national security; or

“(C) prevent significant impairment to the national interests of the United States.

“(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

“(A) the President of the Senate;

“(B) the Speaker of the House of Representatives;

“(C) the Committee on Governmental Affairs of the Senate;

“(D) the Committee on Government Reform of the House of Representatives; and

“(E) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit

or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.”.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(b) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

“(G) The Department of Homeland Security.”.

SEC. 108. CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Information Officer, who shall be designated in the manner prescribed under section 3506(a)(2)(A) of title 44, United States Code.

(b) RESPONSIBILITIES.—The Chief Information Officer shall assist the Secretary with Department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

SEC. 109. GENERAL COUNSEL.

(a) IN GENERAL.—There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The General Counsel shall—

(1) serve as the chief legal officer of the Department;

(2) provide legal assistance to the Secretary concerning the programs and policies of the Department; and

(3) advise and assist the Secretary in carrying out the responsibilities under section 102(b).

SEC. 110. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that

ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 111. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 112. CHIEF HUMAN CAPITAL OFFICER.

(a) IN GENERAL.—The Secretary shall appoint or designate a Chief Human Capital Officer, who shall—

(1) advise and assist the Secretary and other officers of the Department in ensuring that the workforce of the Department has the necessary skills and training, and that the recruitment and retention policies of the Department allow the Department to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the Department to achieve its missions;

(2) oversee the implementation of the laws, rules and regulations of the President and the Office of Personnel Management governing the civil service within the Department; and

(3) advise and assist the Secretary in planning and reporting under the Government Performance and Results Act of 1993 (including the amendments made by that Act), with respect to the human capital resources and needs of the Department for achieving the plans and goals of the Department.

(b) RESPONSIBILITIES.—The responsibilities of the Chief Human Capital Officer shall include—

(1) setting the workforce development strategy of the Department;

(2) assessing workforce characteristics and future needs based on the mission and strategic plan of the Department;

(3) aligning the human resources policies and programs of the Department with organization mission, strategic goals, and performance outcomes;

(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

(5) identifying best practices and benchmarking studies;

(6) applying methods for measuring intellectual capital and identifying links of that

capital to organizational performance and growth; and

(7) providing employee training and professional development.

SEC. 113. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

SEC. 114. EXECUTIVE SCHEDULE POSITIONS.

(a) EXECUTIVE SCHEDULE LEVEL I POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

“Secretary of Homeland Security.”

(b) EXECUTIVE SCHEDULE LEVEL II POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Deputy Secretary of Homeland Security.”

(c) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

“Under Secretary for Management, Department of Homeland Security.”

(d) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

“Assistant Secretaries of Homeland Security (5).

“Inspector General, Department of Homeland Security.

“Chief Financial Officer, Department of Homeland Security.

“Chief Information Officer, Department of Homeland Security.

“General Counsel, Department of Homeland Security.”

Subtitle B—Establishment of Directorates and Offices

SEC. 131. DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Border and Transportation Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Border and Transportation, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Border and Transportation Protection shall be responsible for the following:

(1) Securing the borders, territorial waters, ports, terminals, waterways and air, land (including rail), and sea transportation systems of the United States, including coordinating governmental activities at ports of entry.

(2) Receiving and providing relevant intelligence on threats of terrorism and other homeland threats.

(3) Administering, carrying out, and promoting other established missions of the entities transferred to the Directorate.

(4) Using intelligence from the Directorate of Intelligence and other Federal intelligence organizations under section 132(a)(1)(B) to establish inspection priorities to identify products and other goods imported from suspect locations recognized by the intelligence community as having terrorist activities, unusual human health or agriculture disease outbreaks, or harboring terrorists.

(5) Providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities that have established partnerships with the Federal Law Enforcement Training Center.

(6) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(7) Consistent with section 175, conducting agricultural import and entry inspection functions transferred under section 175.

(8) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—Except as provided under subsection (d), the authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The United States Customs Service, which shall be maintained as a distinct entity within the Department.

(2) The United States Coast Guard, which shall be maintained as a distinct entity within the Department.

(3) The Transportation Security Administration of the Department of Transportation.

(4) The Federal Law Enforcement Training Center of the Department of the Treasury.

(d) EXERCISE OF CUSTOMS REVENUE AUTHORITY.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—Notwithstanding subsection (c), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise this authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by