

(b) NOTICE OF PROCEEDING.—Section 438(b) of such Act (42 U.S.C. 638(b)) is amended by inserting “shall have in effect a rule requiring State courts to notify foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State of any proceeding to be held with respect to the child, and” after “highest State court”.

#### SEC. 10. REASONABLE EFFORTS.

(a) IN GENERAL.—Section 471(a)(15)(C) of the Social Security Act (42 U.S.C. 671(a)(15)(C)) is amended by inserting “(including, if appropriate, through an interstate placement)” after “accordance with the permanency plan”.

(b) PERMANENCY HEARING.—Section 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i)) is amended by inserting “, which considers in-State and out-of-State permanent placement options for the child,” before “shall”.

(c) CONCURRENT PLANNING.—Section 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is amended by inserting “, including identifying appropriate out-of-State relatives and placements” before “may”.

#### SEC. 11. CASE PLANS.

Section 475(1)(E) of the Social Security Act (42 U.S.C. 675(1)(E)) is amended by inserting “to facilitate orderly and timely interstate placements” before the period.

#### SEC. 12. CASE REVIEW SYSTEM.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by inserting “, in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options,” after “living arrangement”; and

(2) by inserting “the hearing shall determine” before “whether the”.

#### SEC. 13. USE OF INTERJURISDICTIONAL RESOURCES.

Section 422(b)(12) of the Social Security Act (42 U.S.C. 622(b)(12)) is amended—

(1) by striking “develop plans for the” and inserting “make”; and

(2) by inserting “(including through contracts for the purchase of services)” after “resources”; and

(3) by inserting “, and shall eliminate legal barriers,” before “to facilitate”.

#### SEC. 14. GAO STUDY ON CHILD WELFARE BACKGROUND CHECKS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of background checks that are performed for the purpose of determining the appropriateness of placing in a foster or adoptive home a child who is under the custody of a State. The study shall review the policies and practices of States in order to—

(1) identify the most common delays in the background clearance process and where in the process the delays occur;

(2) describe when background checks are initiated;

(3) determine which of local, State, or Federal (such as FBI) background checks are used, how long it takes, on average, for each kind of check to be processed, which crimes or other events are included in each kind of check, how the States differ in classifying the crimes and other events checked, and how the information revealed by the checks is used in determining eligibility to act as a foster or adoptive parent;

(4) examine the barriers child welfare agencies face in accessing criminal background check information;

(5) examine the use of the latest information-sharing technology, including electronic fingerprinting and participation in the Integrated Automated Fingerprinting Information System;

(6) identify the varied uses of such technology for child welfare purposes as opposed to criminal justice purposes; and

(7) recommend best practices that can increase the speed, efficiency, and accuracy of child welfare background checks at all levels of government.

(b) REPORT TO THE CONGRESS.—Within 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Ways and Means and on Education and the Workforce of the House of Representatives and the Committees on Finance and on Health, Education, Labor, and Pensions of the Senate a report which contains the results of the study required by subsection (a).

#### SEC. 15. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on October 1, 2004, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part B or E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3577. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table.

SA 3578. Mr. BAUCUS (for himself, Mr. LEVIN, Ms. STABENOW, Mrs. MURRAY, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3579. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3580. Mr. SCHUMER (for himself and Mr. CORZINE) proposed an amendment to the bill H.R. 4567, supra.

SA 3581. Mr. LEAHY (for himself, Mr. NELSON, of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. REID, and Mr. FEINGOLD) proposed an amendment to the bill H.R. 4567, supra.

SA 3582. Mr. THOMAS proposed an amendment to amendment SA 3581 proposed by Mr. LEAHY (for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. REID, and Mr. FEINGOLD) to the bill H.R. 4567, supra.

SA 3583. Mr. SPECTER (for himself, Ms. MIKULSKI, Mr. SANTORUM, Mrs. MURRAY, Mr. LUGAR, Mr. KENNEDY, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3584. Mr. LEAHY (for himself, Mr. NELSON, of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, and Mrs. FEINSTEIN) proposed an amendment to amendment SA 3581 proposed by Mr. LEAHY (for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. REID, and Mr. FEINGOLD) to the bill H.R. 4567, supra.

SA 3585. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3586. Mr. COCHRAN (for himself and Mr. BYRD) proposed an amendment to the bill H.R. 4567, supra.

SA 3587. Mr. COCHRAN proposed an amendment to the bill H.R. 4567, supra.

SA 3588. Mr. COCHRAN (for himself, Mr. BYRD, and Mr. STEVENS) proposed an amendment to the bill H.R. 4567, supra.

SA 3589. Mr. ALLARD (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3590. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3591. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3592. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3593. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 3577. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. Amounts appropriated under this Act for expenses related to the protection of federally owned and leased buildings and for the operations of the Federal Protective Service shall not be made available unless the Service implements procedures to ensure that, with respect to contracts (including subcontracts) entered into on or after October 1, 2003 with private security firms to provide protective services for federally owned or leased buildings, the terms of such contracts are not modified in a manner that results in a change in benefits for the employees involved unless the employees involved consent to such changes.

SA 3578. Mr. BAUCUS (for himself, Mr. LEVIN, Ms. STABENOW, Mrs. MURRAY, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 5 and 6, insert the following new section:

SEC. 515. (a) The total amount appropriated by title II for the Office of the Under Secretary for Border and Transportation Security under the heading “AIR AND MARINE

INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT" is hereby increased by \$200,000,000. Of such total amount, as so increased, \$200,000,000 shall be available for the establishment and operation of air bases in the States of Michigan, Montana, New York, North Dakota, and Washington.

(b) Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 1, 2005" and inserting "June 1, 2005".

**SA 3579.** Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 21, lines 17, strike "\$700,000,000" and insert "\$900,000,000".

**SA 3580.** Mr. SCHUMER (for himself and Mr. CORZINE) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 19, strike "\$2,845,081,000" and all that follows through "grants;" on page 20, line 11, and insert the following: "\$2,995,081,000 which shall be allocated as follows:

"(1) \$970,000,000 for formula-based grants and \$400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): *Provided*, That the application for grants shall be made available to states within 45 days after enactment of this Act; that States shall submit applications within 45 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 15 days after receipt of an application: *Provided further*, That each State shall obligate not less than 80 percent of the total amount of the grant to local governments within 60 days after the grant award; and

"(2) \$1,550,000,000 for discretionary grants for use in high-threat, high-density urban areas, as determined by the Secretary of Homeland Security: *Provided*, That \$300,000,000 shall be for port security grants;"

**SA 3581.** Mr. LEAHY (for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. REID, and Mr. FEINGOLD) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A-76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

**SA 3582.** Mr. THOMAS proposed an amendment to amendment SA 3581 pro-

posed by Mr. LEAHY (for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. REID, and Mr. FEINGOLD) to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

Strike all after the word "Sec." and insert the following:

\_\_\_\_\_. None of the funds appropriated by this Act may be used to make an award, pursuant to a competition under Office of Management and Budget Circular A-76, to a source for the performance of services that were provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants unless—

(1) the Secretary of Homeland Security submits to Congress, not later than 60 days before making such award, a report that describes—

(A) the performance requirements for the services;

(B) the estimated savings to be derived from the performance of such services by that source;

(C) the actions that are to be taken to effectuate the transition to performance either by Federal Government employees under the applicable most efficient organization plan or by a contractor, as the case may be; and

(D) the strategy for mitigating the adverse effects of such award, if any, on Federal Government employees; and

(2) the making of the award to that source will not result in the closure of an immigration information service center that was in operation on June 1, 2004.

**SA 3583.** Mr. SPECTER (for himself, Ms. MIKULSKI, Mr. SANTORUM, Mrs. MURRAY, Mr. LUGAR, Mr. KENNEDY, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, between lines 22 and 23, insert the following:

In addition to all amounts appropriated under this heading, \$50,000,000 for discretionary assistance to nonprofit organizations (as defined under section 501(c)(3) of the Internal Revenue Code of 1986) determined to be at high risk of international terrorist attack.

**SA 3584.** Mr. LEAHY (for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, and Mrs. FEINSTEIN) proposed an amendment to amendment SA 3581 proposed by Mr. LEAHY (for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. REID, and Mr. FEINGOLD) to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the end of the amendment add the following:

SEC. \_\_\_\_\_. Notwithstanding any other provisions of this Act none of the funds appropriated by this Act may be used to process or

approve a competition under Office of Management and Budget Circular A-76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

This section shall take effect one day after the date of the bill's enactment.

**SA 3585.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall—

(1) develop and maintain an integrated strategic transportation security plan; and

(2) base future budget requests on the plan.

(b) The integrated strategic transportation security plan shall—

(1) identify and evaluate the United States transportation assets that need to be protected;

(2) set risk-based priorities for defending the assets identified;

(3) select the most practical and cost-effective ways of defending the assets identified; and

(4) assign transportation security roles and missions to the relevant Federal, State, regional, and local authorities and to the private sector.

(c) The Secretary of Homeland Security shall submit the integrated strategic transportation security plan to Congress not later than February 1, 2005 and shall submit updated plans, including assessments of the progress made on implementation of the plan, on the first day of February each year thereafter. Any part of the plan that involves information that is properly classified under criteria established by Executive order shall be submitted to Congress separately in classified form.

**SA 3586.** Mr. COCHRAN (for himself and Mr. BYRD) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 11, strike "Provided further" on line 13 down through and including "proviso" on line 23, and insert the following:

"Provided further, That the Government Accountability Office shall review, using a methodology deemed appropriate by the Comptroller General, the calendar year 2000 cost information for screening passengers and property pursuant to section 4494(a)(2) of Title 49, United States Code, of air carriers and foreign air carriers engaged in air transportation and intrastate air transportation and report the information within six months of enactment of the Act but no earlier than March 31, 2005, to the Committees on Appropriations of the Senate and House of Representatives and Committee on Commerce, Science, and Transportation: *Provided further*, That the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access, for the purpose of reviewing such cost information, to the personnel and to the books;

accounts; documents; papers; records (including electronic records); and automated data and files of such air carriers, airport authorities, and their contractors; that the Comptroller General deems relevant for purposes of reviewing the information sought pursuant to the provisions of the preceding proviso: *Provided further*, That the Comptroller General may obtain and duplicate any such records, documents, working papers, automated data and files, or other information relevant to such reviews without cost to the Comptroller General and the Comptroller General's right of access to such information shall be enforceable pursuant to section 716(c) of Title 31 of the United States Code: *Provided further*, That the Comptroller General shall maintain the same level of confidentiality for information made available under the preceding provisos as that required under section 716(e) of Title 31 of the United States Code: *Provided further*, That upon the request of the Comptroller General, the Secretary of the Department of Homeland Security shall transfer to the Government Accountability Office from appropriations available for administration expenses of the Transportation Security Administration, the amount requested by the Comptroller General, not to exceed \$5,000,000, to cover the full costs of any review and report of the calendar year 2000 cost information conducted by the Comptroller General, with 15 days advance notice by the Transportation Security Administration to the Committees on Appropriations of the Senate and House of Representatives: *Provided further*, That the Comptroller General shall credit funds transferred under the authority of the preceding proviso to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the review and report: *Provided further*, That any funds transferred and credited under the authority of the preceding provisos that are not needed for the Comptroller General's performance of such review and report shall be returned to the Department of Homeland Security and credited to the appropriation from which transferred."

On page 11, line 25, strike "audit" and insert "review".

**SA 3587.** Mr. COCHRAN proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 7, line 3, strike "General Accounting" and insert "Government Accountability".

**SA 3588.** Mr. COCHRAN (for himself, Mr. BYRD, and Mr. STEVENS) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 37, line 6, strike all after "(a)" down through and including "2005." on page 39, line 5 and insert the following:

"None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Computer Assisted Passenger Prescreening System (CAPPS II) or Secure Flight or other follow on/successor programs, that the Transportation Security Administration (TSA) plans to utilize to screen aviation passengers, until the Government Accountability Office has reported to the Committees on Appropriations of the Senate and the House of Representatives that—

(1) a system of due process exists whereby aviation passengers determined to pose a threat and either delayed or prohibited from boarding their scheduled flights by the TSA may appeal such decision and correct erroneous information contained in CAPPS II or Secure Flight or other follow on/successor programs;

(2) the underlying error rate of the government and private data bases that will be used both to establish identity and assign a risk level to a passenger will not produce a large number of false positives that will result in a significant number of passengers being treated mistakenly or security resources being diverted;

(3) the TSA has stress-tested and demonstrated the efficacy and accuracy of all search tools in CAPPS II or Secure Flight or other follow on/successor programs and has demonstrated that CAPPS II or Secure Flight or other follow on/successor programs can make an accurate predictive assessment of those passengers who may constitute a threat to aviation;

(4) the Secretary of Homeland Security has established an internal oversight board to monitor the manner in which CAPPS II or Secure Flight or other follow on/successor programs are being developed and prepared;

(5) the TSA has built in sufficient operational safeguards to reduce the opportunities for abuse;

(6) substantial security measures are in place to protect CAPPS II or Secure Flight or other follow on/successor programs from unauthorized access by hackers or other intruders;

(7) the TSA has adopted policies establishing effective oversight of the use and operation of the system;

(8) there are no specific privacy concerns with the technological architecture of the system; and

(9) the TSA has, pursuant to the requirements of 49 USC 44903 (i)(2)(A), modified CAPPS II or Secure Flight or other follow on/successor programs with respect to intrastate transportation to accommodate States with unique air transportation needs and passengers who might otherwise regularly trigger primary selectee status.

(b) During the testing phase permitted by paragraph (a) of this section, no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a government watch list.

(c) The Government Accountability Office shall submit the report required under paragraph (a) of this section no later than February 15, 2005."

**SA 3589.** Mr. ALLARD (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) Not later than 3 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives and to the Committee on Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives on the implementation of Homeland Security Presidential Directive Seven.

(b) The report under this section shall include—

(1) the Department's plan and associated timeline for the mapping of the United States critical infrastructure;

(2) an assessment of the resource requirements of relevant States, counties, and local governments so that full participation by those entities may be integrated into the plan;

(3) the Department's plan for oversight of all geospatial information systems management, procurement, and interoperability; and

(4) the timeline for creating the Department-wide Geospatial Information System capability under the direction of the Chief Information Officer.

**SA 3590.** Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 5 and 6, insert the following:

**SEC. 515. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.**

(a) IN GENERAL.—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."

(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—The individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the date of enactment of this Act may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

(d) CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesignating subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

"(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code."; and

(B) in section 702 (6 U.S.C. 342) by striking "shall report" and all that follows through the period and inserting "shall perform functions as specified in chapter 9 of title 31, United States Code.".

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.

**SA 3591.** Mr. FITZGERALD submitted an amendment intended to be

proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 5 and 6, insert the following:

**TITLE VI—DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY**

**SEC. 601. SHORT TITLE.**

This title may be cited as the “Department of Homeland Security Financial Accountability Act”.

**SEC. 602. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.**

(a) IN GENERAL.—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.”.

(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—The individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the date of enactment of this Act may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

(d) CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesignating subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

“(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code.”; and

(B) in section 702 (6 U.S.C. 342) by striking “shall report” and all that follows through the period and inserting “shall perform functions as specified in chapter 9 of title 31, United States Code.”.

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.

**SEC. 603. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.**

(a) PERFORMANCE AND ACCOUNTABILITY REPORTS.—Section 3516 of title 31, United States Code, is amended by adding at the end the following:

“(f) The Secretary of Homeland Security—

(1) shall for each fiscal year submit a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security; and

(2) shall include in each performance and accountability report an audit opinion of the Department’s internal controls over its financial reporting.”.

(b) IMPLEMENTATION OF AUDIT OPINION REQUIREMENT.—The Secretary of Homeland Security shall include audit opinions in performance and accountability reports under section 3516(f) of title 31, United States Code, as amended by subsection (a), only for fiscal years after fiscal year 2004.

(c) ASSERTION OF INTERNAL CONTROLS.—The Secretary of Homeland Security shall include in the performance and accountability report for fiscal year 2004 submitted by the Secretary under section 3516(f) of title 31, United States Code, an assertion of the internal controls that apply to financial reporting by the Department of Homeland Security.

**SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out this title.

**SA 3592.** Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 5 and 6, insert the following:

**TITLE VI—DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY**

**SEC. 601. SHORT TITLE.**

This title may be cited as “Department of Homeland Security Financial Accountability Act”.

**SEC. 602. FINDINGS.**

The Congress finds the following:

(1) Influential financial management leadership is of vital importance to the mission success of the Department of Homeland Security. For this reason, the Chief Financial Officer of the Department must be a key figure in the Department’s management.

(2) To provide a sound financial leadership structure, the provisions of law enacted by the Chief Financial Officers Act of 1990 (Public Law 101-576) provide that the Chief Financial Officer of each of the Federal executive departments is to be a Presidential appointee who reports directly to the Secretary of that department on financial management matters. Because the Department of Homeland Security was only recently created, the provisions enacted by that Act must be amended to include the Department within these provisions.

(3) The Department of Homeland Security was created by consolidation of 22 separate Federal agencies, each with its own accounting and financial management system. None of these systems was developed with a view to executing the mission of the Department of Homeland Security to prevent terrorist attacks within the United States, reduce the Nation’s vulnerability to terrorism, and minimize the damage and assist in the recovery from terrorist attacks. For these reasons, a strong Chief Financial Officer is needed within the Department both to consolidate financial management operations, and to insure that management control systems are comprehensively designed to achieve the mission and execute the strategy of the Department.

(4) The provisions of law enacted by the Chief Financial Officers Act of 1990 require agency Chief Financial Officers to improve the financial information available to agency managers and the Congress. Those provisions also specify that agency financial management systems must provide for the systematic measurement of performance. In the case of the Department of Homeland Security,

therefore, it is vitally important that management control systems be designed with a clear view of a homeland security strategy, including the priorities of the Department in addressing those risks of terrorism deemed most significant based upon a comprehensive assessment of potential threats, vulnerabilities, criticality, and consequences. For this reason, Federal law should be amended to clearly state the responsibilities of the Chief Financial Officer of the Department of Homeland Security to provide management control information, for the benefit of managers within the Department and to help inform the Congress, that permits an assessment of the Department’s performance in executing a homeland security strategy.

**SEC. 603. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.**

(a) IN GENERAL.—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.”.

(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—An individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the date of enactment of this Act, or another person who is appointed to replace such an individual in an acting capacity after the date of enactment of this Act, may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

(d) CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesignating subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

“(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code.”; and

(B) in section 702 (6 U.S.C. 342) by striking “shall report” and all that follows through the period and inserting “shall perform functions as specified in chapter 9 of title 31, United States Code, and, with respect to all such functions and other responsibilities that may be assigned to the Chief Financial Officer from time to time, shall also report to the Under Secretary for Management.”.

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (C) through (H) in order as subparagraphs (B) through (G).

**SEC. 604. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.**

(a) PERFORMANCE AND ACCOUNTABILITY REPORTS.—Section 3516 of title 31, United States Code, is amended by adding at the end the following:

“(f) The Secretary of Homeland Security—

“(1) shall for each fiscal year submit a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security;

“(2) shall include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting; and

“(3) shall design and implement Department-wide management controls that—

“(A) reflect the most recent homeland security strategy developed pursuant to section 874(b)(2) of the Homeland Security Act of 2002; and

“(B) permit assessment, by the Congress and by managers within the Department, of the Department's performance in executing such strategy.”

(b) **IMPLEMENTATION OF AUDIT OPINION REQUIREMENT.**—The Secretary of Homeland Security shall include audit opinions in performance and accountability reports under section 3516(f) of title 31, United States Code, as amended by subsection (a), only for fiscal years after fiscal year 2005.

(c) **ASSERTION OF INTERNAL CONTROLS.**—The Secretary of Homeland Security shall include in the performance and accountability report for fiscal year 2005 submitted by the Secretary under section 3516(f) of title 31, United States Code, an assertion of the internal controls that apply to financial reporting by the Department of Homeland Security.

(d) **AUDIT OPINIONS OF INTERNAL CONTROLS OVER FINANCIAL REPORTING BY CHIEF FINANCIAL OFFICER AGENCIES.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Chief Financial Officers Council and the President's Council on Integrity and Efficiency established by Executive Order 12805 of May 11, 1992, shall jointly conduct a study of the potential costs and benefits of requiring the agencies listed in section 901(b) of title 31, United States Code, to obtain audit opinions of their internal controls over their financial reporting.

(2) **REPORT.**—Upon completion of the study under paragraph (1), the Chief Financial Officers Council and the President's Council on Integrity and Efficiency shall promptly submit a report on the results of the study to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Comptroller General of the United States.

(3) **GOVERNMENT ACCOUNTABILITY OFFICE ANALYSIS.**—Not later than 90 days after receiving the report under paragraph (2), the Comptroller General shall perform an analysis of the information provided in the report and report the findings of the analysis to the committees referred to in paragraph (2).

#### **SEC. 605. FUTURE YEARS HOMELAND SECURITY PROGRAM AND HOMELAND SECURITY STRATEGY.**

Section 874 of the Homeland Security Act of 2002 (6 U.S.C. 112) is amended by striking subsection (b) and inserting the following:

“(b) **CONTENTS.**—The Future Years Homeland Security Program under subsection (a) shall—

“(1) include the same type of information, organizational structure, and level of detail as the future years defense program submitted to Congress by the Secretary of Defense under section 221 of title 10, United States Code;

“(2) set forth the homeland security strategy of the Department, which shall be developed and updated as appropriate annually by the Secretary, that was used to develop program planning guidance for the Future Years Homeland Security Program; and

“(3) include an explanation of how the resource allocations included in the Future Years Homeland Security Program correlate to the homeland security strategy set forth under paragraph (2).”

#### **SEC. 606. ESTABLISHMENT OF OFFICE OF PROGRAM ANALYSIS AND EVALUATION.**

Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is amended by—

(1) inserting “(a) In General.” before the first sentence; and

(2) adding at the end the following:

“(b) **PROGRAM ANALYSIS AND EVALUATION FUNCTION.**—

“(1) **ESTABLISHMENT OF OFFICE OF PROGRAM ANALYSIS AND EVALUATION.**—Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish an Office of Program Analysis and Evaluation within the Department (in this section referred to as the ‘Office’).

“(2) **RESPONSIBILITIES.**—The Office shall perform the following functions:

“(A) Analyze and evaluate plans, programs, and budgets of the Department in relation to United States homeland security objectives, projected threats, vulnerability assessments, estimated costs, resource constraints, and the most recent homeland security strategy developed pursuant to section 874(b)(2).

“(B) Develop and perform analyses and evaluations of alternative plans, programs, personnel levels, and budget submissions for the Department in relation to United States homeland security objectives, projected threats, vulnerability assessments, estimated costs, resource constraints, and the most recent homeland security strategy developed pursuant to section 874(b)(2).

“(C) Establish policies for, and oversee the integration of, the planning, programming, and budgeting system of the Department.

“(D) Review and ensure that the Department meets performance-based budget requirements established by the Office of Management and Budget.

“(E) Provide guidance for, and oversee the development of, the Future Years Homeland Security Program of the Department, as specified under section 874.

“(F) Ensure that the costs of Department programs, including classified programs, are presented accurately and completely.

“(G) Oversee the preparation of the annual performance plan for the Department and the program and performance section of the annual report on program performance for the Department, consistent with sections 1115 and 1116, respectively, of title 31, United States Code.

“(H) Provide leadership in developing and promoting improved analytical tools and methods for analyzing homeland security planning and the allocation of resources.

“(I) Any other responsibilities delegated by the Secretary consistent with an effective program analysis and evaluation function.

“(3) **DIRECTOR OF PROGRAM ANALYSIS AND EVALUATION.**—There shall be a Director of Program Analysis and Evaluation, who—

“(A) shall be a principal staff assistant to the Chief Financial Officer of the Department for program analysis and evaluation; and

“(B) shall report to an official no lower than the Chief Financial Officer.

“(4) **REORGANIZATION.**—

“(A) **IN GENERAL.**—The Secretary may allocate or reallocate the functions of the Office, or discontinue the Office, in accordance with section 872(a).

“(B) **EXEMPTION FROM LIMITATIONS.**—Section 872(b) shall not apply to any action by the Secretary under this paragraph.”

#### **SEC. 607. NOTIFICATION REGARDING TRANSFER OR REPROGRAMMING OF FUNDS FOR DEPARTMENT OF HOMELAND SECURITY.**

Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is further amended by adding at the end the following:

“(c) **NOTIFICATION REGARDING TRANSFER OR REPROGRAMMING OF FUNDS.**—In any case in which appropriations available to the Department or any officer of the Department are transferred or reprogrammed and notice of such transfer or reprogramming is submitted to the Congress (including any officer, office, or Committee of the Congress), the Chief Financial Officer of the Department shall simultaneously submit such notice to the Select Committee on Homeland Security (or any successor to the jurisdiction of that committee) and the Committee on Government Reform of the House of Representatives, and to the Committee on Governmental Affairs of the Senate.”

**SA 3593.** Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515. Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is amended by striking “, or to another official of the Department, as the Secretary may direct”.

#### **NOTICES OF HEARINGS/MEETINGS**

##### **COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearing regarding the current status of the Hard Rock Mining Industry in America previously scheduled for Thursday, September 16 before the Committee on Energy and Natural Resources has been postponed until Thursday, September 23, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

For further information, please contact Dick Bouts at 202-224-7545 or Amy Millet at 202-224-8276.

#### **AUTHORITY FOR COMMITTEES TO MEET**

##### **COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

Mr. ENZI. Mr. President, I ask unanimous consent that Committee on Commerce, Science, and Transportation be authorized to meet on September 8, 2004, at 10 a.m. on NASA: Space Shuttle in SR-253.

##### **COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

Mr. ENZI. Mr. President, I ask unanimous consent that Committee on Commerce, Science, and Transportation be authorized to meet on September 8, 2004, at 2:30 p.m. on Spectrum for Public Safety Uses in SR-253.

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

##### **COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on