

last two decades, Senator KERRY and Senator LUGAR—I don't know whether there will be ever be a Kerry-Lugar, but there was a Nunn-Lugar that has been so important to this country and to the safety and security of this world. I hope this is the next chapter in building block by block by block this country's responsibility to be a world leader in saying, We want a world that is safer by keeping nuclear weapons out of the hands of those who don't have them, and then aggressively negotiating to try to reduce the nuclear weapons that do now exist.

Some months ago I was at a place outside of Moscow where my colleague Senator LUGAR has previously visited, and that facility is devoted to the training and the security of nuclear weapons. I suspect Senator LUGAR, because he knows a lot about this and has worked a lot on it for a long time, thinks a lot about those issues, as do I. Are we certain that these 25,000 nuclear weapons spread around the world are always secure, always safe, will never be subject to theft? The answer to that is no, but we are trying very hard. This treaty is one more step in the attempt we must make to exercise our leadership responsibility that is ours. So my compliments to Senator KERRY and Senator LUGAR and to all of the others who are engaged in this discussion and who have worked so hard and have done so for decades on these nuclear weapons issue and arms reduction issues.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

#### LEGISLATIVE SESSION

Mr. DORGAN. Madam President, I ask unanimous consent to proceed as if in legislative session and as if in morning business for the purpose of clearing processed legislative language.

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

Mr. DORGAN. For the information of my colleagues, I will run through these unanimous consent requests and then be completed.

#### GPRA MODERNIZATION ACT OF 2010

Mr. DORGAN. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 678, H.R. 2142.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to

strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “*GPRA Modernization Act of 2010*”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Strategic planning amendments.
- Sec. 3. Performance planning amendments.
- Sec. 4. Performance reporting amendments.
- Sec. 5. Federal Government and agency priority goals.
- Sec. 6. Quarterly priority progress reviews and use of performance information.
- Sec. 7. Transparency of Federal Government programs, priority goals, and results.
- Sec. 8. Agency Chief Operating Officers.
- Sec. 9. Agency Performance Improvement Officers and the Performance Improvement Council.
- Sec. 10. Format of performance plans and reports.
- Sec. 11. Reducing duplicative and outdated agency reporting.
- Sec. 12. Performance management skills and competencies.
- Sec. 13. Technical and conforming amendments.
- Sec. 14. Implementation of this Act.
- Sec. 15. Congressional oversight and legislation.

#### SEC. 2. STRATEGIC PLANNING AMENDMENTS.

Chapter 3 of title 5, United States Code, is amended by striking section 306 and inserting the following:

#### §306. Agency strategic plans

“(a) Not later than the first Monday in February of any year following the year in which the term of the President commences under section 101 of title 3, the head of each agency shall make available on the public website of the agency a strategic plan and notify the President and Congress of its availability. Such plan shall contain—

“(1) a comprehensive mission statement covering the major functions and operations of the agency;

“(2) general goals and objectives, including outcome-oriented goals, for the major functions and operations of the agency;

“(3) a description of how any goals and objectives contribute to the Federal Government priority goals required by section 1120(a) of title 3;

“(4) a description of how the goals and objectives are to be achieved, including—

“(A) a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to achieve those goals and objectives; and

“(B) a description of how the agency is working with other agencies to achieve its goals and objectives as well as relevant Federal Government priority goals;

“(5) a description of how the goals and objectives incorporate views and suggestions obtained through congressional consultations required under subsection (d);

“(6) a description of how the performance goals provided in the plan required by section 1115(a) of title 31, including the agency priority goals required by section 1120(b) of title 31, if applicable, contribute to the general goals and objectives in the strategic plan;

“(7) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

“(8) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations to be conducted.

“(b) The strategic plan shall cover a period of not less than 4 years following the fiscal year in which the plan is submitted. As needed, the head of the agency may make adjustments to the strategic plan to reflect significant changes

in the environment in which the agency is operating, with appropriate notification of Congress.

“(c) The performance plan required by section 1115(b) of title 31 shall be consistent with the agency's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

“(d) When developing or making adjustments to a strategic plan, the agency shall consult periodically with the Congress, including majority and minority views from the appropriate authorizing, appropriations, and oversight committees, and shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan. The agency shall consult with the appropriate committees of Congress at least once every 2 years.

“(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of strategic plans under this section shall be performed only by Federal employees.

“(f) For purposes of this section the term ‘agency’ means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the Government Accountability Office, the United States Postal Service, and the Postal Regulatory Commission.”

#### SEC. 3. PERFORMANCE PLANNING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1115 and inserting the following:

#### §1115. Federal Government and agency performance plans

“(a) **FEDERAL GOVERNMENT PERFORMANCE PLANS.**—In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall coordinate with agencies to develop the Federal Government performance plan. In addition to the submission of such plan with each budget of the United States Government, the Director of the Office of Management and Budget shall ensure that all information required by this subsection is concurrently made available on the website provided under section 1122 and updated periodically, but no less than annually. The Federal Government performance plan shall—

“(1) establish Federal Government performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year for each of the Federal Government priority goals required under section 1120(a) of this title;

“(2) identify the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities contributing to each Federal Government performance goal during the current fiscal year;

“(3) for each Federal Government performance goal, identify a lead Government official who shall be responsible for coordinating the efforts to achieve the goal;

“(4) establish common Federal Government performance indicators with quarterly targets to be used in measuring or assessing—

“(A) overall progress toward each Federal Government performance goal; and

“(B) the individual contribution of each agency, organization, program activity, regulation, tax expenditure, policy, and other activity identified under paragraph (2);

“(5) establish clearly defined quarterly milestones; and

“(6) identify major management challenges that are Governmentwide or crosscutting in nature and describe plans to address such challenges, including relevant performance goals, performance indicators, and milestones.

“(b) **AGENCY PERFORMANCE PLANS.**—Not later than the first Monday in February of each year, the head of each agency shall make available on a public website of the agency, and notify the President and the Congress of its availability, a performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

“(1) establish performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year;

“(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (c);

“(3) describe how the performance goals contribute to—

“(A) the general goals and objectives established in the agency’s strategic plan required by section 306(a)(2) of title 5; and

“(B) any of the Federal Government performance goals established in the Federal Government performance plan required by subsection (a)(1);

“(4) identify among the performance goals those which are designated as agency priority goals as required by section 1120(b) of this title, if applicable;

“(5) provide a description of how the performance goals are to be achieved, including—

“(A) the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals;

“(B) clearly defined milestones;

“(C) an identification of the organizations, program activities, regulations, policies, and other activities that contribute to each performance goal, both within and external to the agency;

“(D) a description of how the agency is working with other agencies to achieve its performance goals as well as relevant Federal Government performance goals; and

“(E) an identification of the agency officials responsible for the achievement of each performance goal, who shall be known as goal leaders;

“(6) establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators;

“(7) provide a basis for comparing actual program results with the established performance goals;

“(8) a description of how the agency will ensure the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

“(A) the means to be used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency will compensate for such limitations if needed to reach the required level of accuracy;

“(9) describe major management challenges the agency faces and identify—

“(A) planned actions to address such challenges;

“(B) performance goals, performance indicators, and milestones to measure progress toward resolving such challenges; and

“(C) the agency official responsible for resolving such challenges; and

“(10) identify low-priority program activities based on an analysis of their contribution to the mission and goals of the agency and include an evidence-based justification for designating a program activity as low priority.

“(c) **ALTERNATIVE FORM.**—If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

“(1) include separate descriptive statements of—

“(A)(i) a minimally effective program; and

“(ii) a successful program; or

“(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity’s performance meets the criteria of the description; or

“(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

“(d) **TREATMENT OF PROGRAM ACTIVITIES.**—For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

“(e) **APPENDIX.**—An agency may submit with an annual performance plan an appendix covering any portion of the plan that—

“(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

“(2) is properly classified pursuant to such Executive order.

“(f) **INHERENTLY GOVERNMENTAL FUNCTIONS.**—The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

“(g) **CHIEF HUMAN CAPITAL OFFICERS.**—With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (b)(5)(A).

“(h) **DEFINITIONS.**—For purposes of this section and sections 1116 through 1125, and sections 9703 and 9704, the term—

“(1) ‘agency’ has the same meaning as such term is defined under section 306(f) of title 5;

“(2) ‘crosscutting’ means across organizational (such as agency) boundaries;

“(3) ‘customer service measure’ means an assessment of service delivery to a customer, client, citizen, or other recipient, which can include an assessment of quality, timeliness, and satisfaction among other factors;

“(4) ‘efficiency measure’ means a ratio of a program activity’s inputs (such as costs or hours worked by employees) to its outputs (amount of products or services delivered) or outcomes (the intended results of a program);

“(5) ‘major management challenge’ means programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by the Government Accountability Office as high risk or issues identified by an Inspector General) where a failure to perform well could seriously affect the ability of an agency or the Government to achieve its mission or goals;

“(6) ‘milestone’ means a scheduled event signifying the completion of a major deliverable or a set of related deliverables or a phase of work;

“(7) ‘outcome measure’ means an assessment of the results of a program activity compared to its intended purpose;

“(8) ‘output measure’ means the tabulation, calculation, or recording of activity or effort that can be expressed in a quantitative or qualitative manner;

“(9) ‘performance goal’ means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

“(10) ‘performance indicator’ means a particular value or characteristic used to measure output or outcome;

“(11) ‘program activity’ means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

“(12) ‘program evaluation’ means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.”

**SEC. 4. PERFORMANCE REPORTING AMENDMENTS.**

Chapter 11 of title 31, United States Code, is amended by striking section 1116 and inserting the following:

**§ 1116. Agency performance reporting**

“(a) The head of each agency shall make available on a public website of the agency and to the Office of Management and Budget an update on agency performance.

“(b)(1) Each update shall compare actual performance achieved with the performance goals established in the agency performance plan under section 1115(b) and shall occur no less than 150 days after the end of each fiscal year, with more frequent updates of actual performance on indicators that provide data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden.

“(2) If performance goals are specified in an alternative form under section 1115(c), the results shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

“(c) Each update shall—

“(1) review the success of achieving the performance goals and include actual results for the 5 preceding fiscal years;

“(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals during the period covered by the update;

“(3) explain and describe where a performance goal has not been met (including when a program activity’s performance is determined not to have met the criteria of a successful program activity under section 1115(c)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

“(A) why the goal was not met;

“(B) those plans and schedules for achieving the established performance goal; and

“(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

“(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title;

“(5) include a review of the performance goals and evaluation of the performance plan relative to the agency’s strategic human capital management;

“(6) describe how the agency ensures the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

“(A) the means used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy; and

“(7) include the summary findings of those program evaluations completed during the period covered by the update.

“(d) If an agency performance update includes any program activity or information that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive Order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

“(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of agency performance updates under this section shall be performed only by Federal employees.

“(f) Each fiscal year, the Office of Management and Budget shall determine whether the agency programs or activities meet performance goals and objectives outlined in the agency performance plans and submit a report on unmet goals to—

“(1) the head of the agency;

“(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(3) the Committee on Oversight and Governmental Reform of the House of Representatives; and

“(4) the Government Accountability Office.

“(g) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 1 fiscal year, the head of the agency shall submit a performance improvement plan to the Office of Management and Budget to increase program effectiveness for each unmet goal with measurable milestones. The agency shall designate a senior official who shall oversee the performance improvement strategies for each unmet goal.

“(h)(1) If the Office of Management and Budget determines that agency programs or activities have unmet performance goals for 2 consecutive fiscal years, the head of the agency shall—

“(A) submit to Congress a description of the actions the Administration will take to improve performance, including proposed statutory changes or planned executive actions; and

“(B) describe any additional funding the agency will obligate to achieve the goal, if such an action is determined appropriate in consultation with the Director of the Office of Management and Budget, for an amount determined appropriate by the Director.

“(2) In providing additional funding described under paragraph (1)(B), the head of the agency shall use any reprogramming or transfer authority available to the agency. If after exercising such authority additional funding is necessary to achieve the level determined appropriate by the Director of the Office of Management and Budget, the head of the agency shall submit a request to Congress for additional reprogramming or transfer authority.

“(i) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 3 consecutive fiscal years, the Director of the Office of Management and Budget shall submit recommendations to Congress on actions to improve performance not later than 60 days after that determination, including—

“(1) reauthorization proposals for each program or activity that has not met performance goals;

“(2) proposed statutory changes necessary for the program activities to achieve the proposed level of performance on each performance goal; and

“(3) planned executive actions or identification of the program for termination or reduction in the President's budget.”.

#### **SEC. 5. FEDERAL GOVERNMENT AND AGENCY PRIORITY GOALS.**

Chapter 11 of title 31, United States Code, is amended by adding after section 1119 the following:

#### **§1120. Federal Government and agency priority goals**

“(a) **FEDERAL GOVERNMENT PRIORITY GOALS.**—

“(1) The Director of the Office of Management and Budget shall coordinate with agencies to develop priority goals to improve the performance and management of the Federal Government. Such Federal Government priority goals shall include—

“(A) outcome-oriented goals covering a limited number of crosscutting policy areas; and

“(B) goals for management improvements needed across the Federal Government, including—

“(i) financial management;

“(ii) human capital management;

“(iii) information technology management;

“(iv) procurement and acquisition management; and

“(v) real property management;

“(2) The Federal Government priority goals shall be long-term in nature. At a minimum, the Federal Government priority goals shall be updated or revised every 4 years and made publicly available concurrently with the submission of the budget of the United States Government made in the first full fiscal year following any year in which the term of the President commences under section 101 of title 3. As needed, the Director of the Office of Management and Budget may make adjustments to the Federal Government priority goals to reflect significant changes in the environment in which the Federal Government is operating, with appropriate notification of Congress.

“(3) When developing or making adjustments to Federal Government priority goals, the Director of the Office of Management and Budget shall consult periodically with the Congress, including obtaining majority and minority views from—

“(A) the Committees on Appropriations of the Senate and the House of Representatives;

“(B) the Committees on the Budget of the Senate and the House of Representatives;

“(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(D) the Committee on Oversight and Government Reform of the House of Representatives;

“(E) the Committee on Finance of the Senate;

“(F) the Committee on Ways and Means of the House of Representatives; and

“(G) any other committees as determined appropriate;

“(4) The Director of the Office of Management and Budget shall consult with the appropriate committees of Congress at least once every 2 years.

“(5) The Director of the Office of Management and Budget shall make information about the Federal Government priority goals available on the website described under section 1122 of this title.

“(6) The Federal Government performance plan required under section 1115(a) of this title shall be consistent with the Federal Government priority goals.

“(b) **AGENCY PRIORITY GOALS.**—

“(1) Every 2 years, the head of each agency listed in section 901(b) of this title, or as otherwise determined by the Director of the Office of Management and Budget, shall identify agency priority goals from among the performance goals of the agency. The Director of the Office of Management and Budget shall determine the total number of agency priority goals across the Government, and the number to be developed by each agency. The agency priority goals shall—

“(A) reflect the highest priorities of the agency, as determined by the head of the agency and informed by the Federal Government priority goals provided under subsection (a) and the consultations with Congress and other interested parties required by section 306(d) of title 5;

“(B) have ambitious targets that can be achieved within a 2-year period;

“(C) have a clearly identified agency official, known as a goal leader, who is responsible for the achievement of each agency priority goal;

“(D) have interim quarterly targets for performance indicators if more frequent updates of actual performance provides data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden; and

“(E) have clearly defined quarterly milestones.

“(2) If an agency priority goal includes any program activity or information that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

“(c) The functions and activities of this section shall be considered to be inherently governmental functions. The development of Federal Government and agency priority goals shall be performed only by Federal employees.”.

#### **SEC. 6. QUARTERLY PRIORITY PROGRESS REVIEWS AND USE OF PERFORMANCE INFORMATION.**

Chapter 11 of title 31, United States Code, is amended by adding after section 1120 (as added by section 5 of this Act) the following:

#### **§1121. Quarterly priority progress reviews and use of performance information**

“(a) **USE OF PERFORMANCE INFORMATION TO ACHIEVE FEDERAL GOVERNMENT PRIORITY GOALS.**—Not less than quarterly, the Director of the Office of Management and Budget, with the support of the Performance Improvement Council, shall—

“(1) for each Federal Government priority goal required by section 1120(a) of this title, review with the appropriate lead Government official the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

“(2) include in such reviews officials from the agencies, organizations, and program activities that contribute to the accomplishment of each Federal Government priority goal;

“(3) assess whether agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned to each Federal Government priority goal;

“(4) categorize the Federal Government priority goals by risk of not achieving the planned level of performance; and

“(5) for the Federal Government priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agencies, organizations, program activities, regulations, tax expenditures, policies or other activities.

“(b) **AGENCY USE OF PERFORMANCE INFORMATION TO ACHIEVE AGENCY PRIORITY GOALS.**—Not less than quarterly, at each agency required to develop agency priority goals required by section 1120(b) of this title, the head of the agency and Chief Operating Officer, with the support of the agency Performance Improvement Officer, shall—

“(1) for each agency priority goal, review with the appropriate goal leader the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

“(2) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of each agency priority goal;

“(3) assess whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned to the agency priority goals;

“(4) categorize agency priority goals by risk of not achieving the planned level of performance; and

“(5) for agency priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agency program activities, regulations, policies, or other activities.”.

#### **SEC. 7. TRANSPARENCY OF FEDERAL GOVERNMENT PROGRAMS, PRIORITY GOALS, AND RESULTS.**

Chapter 11 of title 31, United States Code, is amended by adding after section 1121 (as added by section 6 of this Act) the following:

**§1122. Transparency of programs, priority goals, and results**

“(a) TRANSPARENCY OF AGENCY PROGRAMS.—

“(1) IN GENERAL.—Not later than October 1, 2012, the Office of Management and Budget shall—

“(A) ensure the effective operation of a single website;

“(B) at a minimum, update the website on a quarterly basis; and

“(C) include on the website information about each program identified by the agencies.

“(2) INFORMATION.—Information for each program described under paragraph (1) shall include—

“(A) an identification of how the agency defines the term ‘program’, consistent with guidance provided by the Director of the Office of Management and Budget, including the program activities that are aggregated, disaggregated, or consolidated to be considered a program by the agency;

“(B) a description of the purposes of the program and the contribution of the program to the mission and goals of the agency; and

“(C) an identification of funding for the current fiscal year and previous 2 fiscal years.

“(b) TRANSPARENCY OF AGENCY PRIORITY GOALS AND RESULTS.—The head of each agency required to develop agency priority goals shall make information about each agency priority goal available to the Office of Management and Budget for publication on the website, with the exception of any information covered by section 1120(b)(2) of this title. In addition to an identification of each agency priority goal, the website shall also consolidate information about each agency priority goal, including—

“(1) a description of how the agency incorporated any views and suggestions obtained through congressional consultations about the agency priority goal;

“(2) an identification of key factors external to the agency and beyond its control that could significantly affect the achievement of the agency priority goal;

“(3) a description of how each agency priority goal will be achieved, including—

“(A) the strategies and resources required to meet the priority goal;

“(B) clearly defined milestones;

“(C) the organizations, program activities, regulations, policies, and other activities that contribute to each goal, both within and external to the agency;

“(D) how the agency is working with other agencies to achieve the goal; and

“(E) an identification of the agency official responsible for achieving the priority goal;

“(4) the performance indicators to be used in measuring or assessing progress;

“(5) a description of how the agency ensures the accuracy and reliability of the data used to measure progress towards the priority goal, including an identification of—

“(A) the means used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy;

“(6) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

“(7) an assessment of whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned;

“(8) an identification of the agency priority goals at risk of not achieving the planned level of performance; and

“(9) any prospects or strategies for performance improvement.

“(c) TRANSPARENCY OF FEDERAL GOVERNMENT PRIORITY GOALS AND RESULTS.—The Director of the Office of Management and Budget shall also make available on the website—

“(1) a brief description of each of the Federal Government priority goals required by section 1120(a) of this title;

“(2) a description of how the Federal Government priority goals incorporate views and suggestions obtained through congressional consultations;

“(3) the Federal Government performance goals and performance indicators associated with each Federal Government priority goal as required by section 1115(a) of this title;

“(4) an identification of the lead Government official for each Federal Government performance goal;

“(5) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

“(6) an identification of the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities that contribute to each Federal Government priority goal;

“(7) an assessment of whether relevant agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned;

“(8) an identification of the Federal Government priority goals at risk of not achieving the planned level of performance; and

“(9) any prospects or strategies for performance improvement.

“(d) INFORMATION ON WEBSITE.—The information made available on the website under this section shall be readily accessible and easily found on the Internet by the public and members and committees of Congress. Such information shall also be presented in a searchable, machine-readable format. The Director of the Office of Management and Budget shall issue guidance to ensure that such information is provided in a way that presents a coherent picture of all Federal programs, and the performance of the Federal Government as well as individual agencies.”.

**SEC. 8. AGENCY CHIEF OPERATING OFFICERS.**

Chapter 11 of title 31, United States Code, is amended by adding after section 1122 (as added by section 7 of this Act) the following:

**§1123. Chief Operating Officers**

“(a) ESTABLISHMENT.—At each agency, the deputy head of agency, or equivalent, shall be the Chief Operating Officer of the agency.

“(b) FUNCTION.—Each Chief Operating Officer shall be responsible for improving the management and performance of the agency, and shall—

“(1) provide overall organization management to improve agency performance and achieve the mission and goals of the agency through the use of strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

“(2) advise and assist the head of agency in carrying out the requirements of sections 1115 through 1122 of this title and section 306 of title 5;

“(3) oversee agency-specific efforts to improve management functions within the agency and across Government; and

“(4) coordinate and collaborate with relevant personnel within and external to the agency who have a significant role in contributing to and achieving the mission and goals of the agency, such as the Chief Financial Officer, Chief Human Capital Officer, Chief Acquisition Officer/Senior Procurement Executive, Chief Information Officer, and other line of business chiefs at the agency.”.

**SEC. 9. AGENCY PERFORMANCE IMPROVEMENT OFFICERS AND THE PERFORMANCE IMPROVEMENT COUNCIL.**

Chapter 11 of title 31, United States Code, is amended by adding after section 1123 (as added by section 8 of this Act) the following:

**§1124. Performance Improvement Officers and the Performance Improvement Council**

“(a) PERFORMANCE IMPROVEMENT OFFICERS.—

“(1) ESTABLISHMENT.—At each agency, the head of the agency, in consultation with the agency Chief Operating Officer, shall designate a senior executive of the agency as the agency Performance Improvement Officer.

“(2) FUNCTION.—Each Performance Improvement Officer shall report directly to the Chief Operating Officer. Subject to the direction of the Chief Operating Officer, each Performance Improvement Officer shall—

“(A) advise and assist the head of the agency and the Chief Operating Officer to ensure that the mission and goals of the agency are achieved through strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

“(B) advise the head of the agency and the Chief Operating Officer on the selection of agency goals, including opportunities to collaborate with other agencies on common goals;

“(C) assist the head of the agency and the Chief Operating Officer in overseeing the implementation of the agency strategic planning, performance planning, and reporting requirements provided under sections 1115 through 1122 of this title and sections 306 of title 5, including the contributions of the agency to the Federal Government priority goals;

“(D) support the head of agency and the Chief Operating Officer in the conduct of regular reviews of agency performance, including at least quarterly reviews of progress achieved toward agency priority goals, if applicable;

“(E) assist the head of the agency and the Chief Operating Officer in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes and assessments; and

“(F) ensure that agency progress toward the achievement of all goals is communicated to leaders, managers, and employees in the agency and Congress, and made available on a public website of the agency.

“(b) PERFORMANCE IMPROVEMENT COUNCIL.—

“(1) ESTABLISHMENT.—There is established a Performance Improvement Council, consisting of—

“(A) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council;

“(B) the Performance Improvement Officer from each agency defined in section 901(b) of this title;

“(C) other Performance Improvement Officers as determined appropriate by the chairperson; and

“(D) other individuals as determined appropriate by the chairperson.

“(2) FUNCTION.—The Performance Improvement Council shall—

“(A) be convened by the chairperson or the designee of the chairperson, who shall preside at the meetings of the Performance Improvement Council, determine its agenda, direct its work, and establish and direct subgroups of the Performance Improvement Council, as appropriate, to deal with particular subject matters;

“(B) assist the Director of the Office of Management and Budget to improve the performance of the Federal Government and achieve the Federal Government priority goals;

“(C) assist the Director of the Office of Management and Budget in implementing the planning, reporting, and use of performance information requirements related to the Federal Government priority goals provided under sections 1115, 1120, 1121, and 1122 of this title;

“(D) work to resolve specific Governmentwide or crosscutting performance issues, as necessary;

“(E) facilitate the exchange among agencies of practices that have led to performance improvements within specific programs, agencies, or across agencies;

“(F) coordinate with other interagency management councils;

“(G) seek advice and information as appropriate from nonmember agencies, particularly smaller agencies;

“(H) consider the performance improvement experiences of corporations, nonprofit organizations, foreign, State, and local governments, Government employees, public sector unions, and customers of Government services;

“(I) receive such assistance, information and advice from agencies as the Council may request, which agencies shall provide to the extent permitted by law; and

“(J) develop and submit to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at times and in such formats as the chairperson may specify, recommendations to streamline and improve performance management policies and requirements.

**(3) SUPPORT.**

“(A) IN GENERAL.—The Administrator of General Services shall provide administrative and other support for the Council to implement this section.

“(B) PERSONNEL.—The heads of agencies with Performance Improvement Officers serving on the Council shall, as appropriate and to the extent permitted by law, provide at the request of the chairperson of the Performance Improvement Council up to 2 personnel authorizations to serve at the direction of the chairperson.”.

**SEC. 10. FORMAT OF PERFORMANCE PLANS AND REPORTS.**

(a) **SEARCHABLE, MACHINE-READABLE PLANS AND REPORTS.**—For fiscal year 2012 and each fiscal year thereafter, each agency required to produce strategic plans, performance plans, and performance updates in accordance with the amendments made by this Act shall—

(1) not incur expenses for the printing of strategic plans, performance plans, and performance reports for release external to the agency, except when providing such documents to the Congress;

(2) produce such plans and reports in searchable, machine-readable formats; and

(3) make such plans and reports available on the website described under section 1122 of title 31, United States Code.

(b) **WEB-BASED PERFORMANCE PLANNING AND REPORTING.**—

(1) IN GENERAL.—Not later than June 1, 2012, the Director of the Office of Management and Budget shall issue guidance to agencies to provide concise and timely performance information for publication on the website described under section 1122 of title 31, United States Code, including, at a minimum, all requirements of sections 1115 and 1116 of title 31, United States Code, except for section 1115(e).

(2) **HIGH-PRIORITY GOALS.**—For agencies required to develop agency priority goals under section 1120(b) of title 31, United States Code, the performance information required under this section shall be merged with the existing information required under section 1122 of title 31, United States Code.

(3) **CONSIDERATIONS.**—In developing guidance under this subsection, the Director of the Office of Management and Budget shall take into consideration the experiences of agencies in making consolidated performance planning and reporting information available on the website as required under section 1122 of title 31, United States Code.

**SEC. 11. REDUCING DUPLICATIVE AND OUTDATED AGENCY REPORTING.**

(a) **BUDGET CONTENTS.**—Section 1105(a) of title 31, United States Code, is amended—

(1) by redesignating second paragraph (33) as paragraph (35); and

(2) by adding at the end the following:

“(37) the list of plans and reports, as provided for under section 1125, that agencies identified

for elimination or consolidation because the plans and reports are determined outdated or duplicative of other required plans and reports.”.

(b) **ELIMINATION OF UNNECESSARY AGENCY REPORTING.**—Chapter 11 of title 31, United States Code, is further amended by adding after section 1124 (as added by section 9 of this Act) the following:

**§ 1125. Elimination of unnecessary agency reporting**

(a) **AGENCY IDENTIFICATION OF UNNECESSARY REPORTS.**—Annually, based on guidance provided by the Director of the Office of Management and Budget, the Chief Operating Officer at each agency shall—

(1) compile a list that identifies all plans and reports the agency produces for Congress, in accordance with statutory requirements or as directed in congressional reports;

(2) analyze the list compiled under paragraph (1), identify which plans and reports are outdated or duplicative of other required plans and reports, and refine the list to include only the plans and reports identified to be outdated or duplicative;

(3) consult with the congressional committees that receive the plans and reports identified under paragraph (2) to determine whether those plans and reports are no longer useful to the committees and could be eliminated or consolidated with other plans and reports; and

(4) provide a total count of plans and reports compiled under paragraph (1) and the list of outdated and duplicative reports identified under paragraph (2) to the Director of the Office of Management and Budget.

(b) **PLANS AND REPORTS.**—

(1) **FIRST YEAR.**—During the first year of implementation of this section, the list of plans and reports identified by each agency as outdated or duplicative shall be not less than 10 percent of all plans and reports identified under subsection (a)(1).

(2) **SUBSEQUENT YEARS.**—In each year following the first year described under paragraph (1), the Director of the Office of Management and Budget shall determine the minimum percent of plans and reports to be identified as outdated or duplicative on each list of plans and reports.

(c) **REQUEST FOR ELIMINATION OF UNNECESSARY REPORTS.**—In addition to including the list of plans and reports determined to be outdated or duplicative by each agency in the budget of the United States Government, as provided by section 1105(a)(37), the Director of the Office of Management and Budget may concurrently submit to Congress legislation to eliminate or consolidate such plans and reports.”.

**SEC. 12. PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.**

(a) **PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.**—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Personnel Management, in consultation with the Performance Improvement Council, shall identify the key skills and competencies needed by Federal Government personnel for developing goals, evaluating programs, and analyzing and using performance information for the purpose of improving Government efficiency and effectiveness.

(b) **POSITION CLASSIFICATIONS.**—Not later than 2 years after the date of enactment of this Act, based on the identifications under subsection (a), the Director of the Office of Personnel Management shall incorporate, as appropriate, such key skills and competencies into relevant position classifications.

(c) **INCORPORATION INTO EXISTING AGENCY TRAINING.**—Not later than 2 years after the enactment of this Act, the Director of the Office of Personnel Management shall work with each agency, as defined under section 306(f) of title 5, United States Code, to incorporate the key skills identified under subsection (a) into training for relevant employees at each agency.

**SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) The table of contents for chapter 3 of title 5, United States Code, is amended by striking the item relating to section 306 and inserting the following:

“306. Agency strategic plans.”.

(b) The table of contents for chapter 11 of title 31, United States Code, is amended by striking the items relating to section 1115 and 1116 and inserting the following:

“1115. Federal Government and agency performance plans.

“1116. Agency performance reporting.”.

(c) The table of contents for chapter 11 of title 31, United States Code, is amended by adding at the end the following:

“1120. Federal Government and agency priority goals.

“1121. Quarterly priority progress reviews and use of performance information.

“1122. Transparency of programs, priority goals, and results.

“1123. Chief Operating Officers.

“1124. Performance Improvement Officers and the Performance Improvement Council.

“1125. Elimination of unnecessary agency reporting.”.

**SEC. 14. IMPLEMENTATION OF THIS ACT.**

(a) **INTERIM PLANNING AND REPORTING.**—

(1) **IN GENERAL.**—The Director of the Office of Management and Budget shall coordinate with agencies to develop interim Federal Government priority goals and submit interim Federal Government performance plans consistent with the requirements of this Act beginning with the submission of the fiscal year 2013 Budget of the United States Government.

(2) **REQUIREMENTS.**—Each agency shall—

(A) not later than February 6, 2012, make adjustments to its strategic plan to make the plan consistent with the requirements of this Act;

(B) prepare and submit performance plans consistent with the requirements of this Act, including the identification of agency priority goals, beginning with the performance plan for fiscal year 2013; and

(C) make performance reporting updates consistent with the requirements of this Act beginning in fiscal year 2012.

(3) **QUARTERLY REVIEWS.**—The quarterly priority progress reviews required under this Act shall begin—

(A) with the first full quarter beginning on or after the date of enactment of this Act for agencies based on the agency priority goals contained in the Analytical Perspectives volume of the Fiscal Year 2011 Budget of the United States Government; and

(B) with the quarter ending June 30, 2012 for the interim Federal Government priority goals.

(b) **GUIDANCE.**—The Director of the Office of Management and Budget shall prepare guidance for agencies in carrying out the interim planning and reporting activities required under subsection (a), in addition to other guidance as required for implementation of this Act.

**SEC. 15. CONGRESSIONAL OVERSIGHT AND LEGISLATION.**

(a) **IN GENERAL.**—Nothing in this Act shall be construed as limiting the ability of Congress to establish, amend, suspend, or annul a goal of the Federal Government or an agency.

(b) **GAO REVIEWS.**—

(1) **INTERIM PLANNING AND REPORTING EVALUATION.**—Not later than June 30, 2013, the Comptroller General shall submit a report to Congress that includes—

(A) an evaluation of the implementation of the interim planning and reporting activities conducted under section 14 of this Act; and

(B) any recommendations for improving implementation of this Act as determined appropriate.

(2) **IMPLEMENTATION EVALUATIONS.**—

(A) **IN GENERAL.**—The Comptroller General shall evaluate the implementation of this Act

subsequent to the interim planning and reporting activities evaluated in the report submitted to Congress under paragraph (1).

(B) AGENCY IMPLEMENTATION.—

(i) EVALUATIONS.—The Comptroller General shall evaluate how implementation of this Act is affecting performance management at the agencies described in section 901(b) of title 31, United States Code, including whether performance management is being used by those agencies to improve the efficiency and effectiveness of agency programs.

(ii) REPORTS.—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) a subsequent report on the evaluation under clause (i), not later than September 30, 2017.

(C) FEDERAL GOVERNMENT PLANNING AND REPORTING IMPLEMENTATION.—

(i) EVALUATIONS.—The Comptroller General shall evaluate the implementation of the Federal Government priority goals, Federal Government performance plans and related reporting required by this Act.

(ii) REPORTS.—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) subsequent reports on the evaluation under clause (i), not later than September 30, 2017 and every 4 years thereafter.

(D) RECOMMENDATIONS.—The Comptroller General shall include in the reports required by subparagraphs (B) and (C) any recommendations for improving implementation of this Act and for streamlining the planning and reporting requirements of the Government Performance and Results Act of 1993.

Mr. DORGAN. Madam President, I ask unanimous consent that the committee-reported substitute amendment be agreed to; the bill, as amended, be read the third time and passed; the motions to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

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

The bill (H.R. 2142) as amended, was read the third time, and passed.

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**REDUCTION OF LEAD IN DRINKING WATER ACT**

Mr. DORGAN. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 702, S. 3874.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 3874) to amend the Safe Drinking Water Act to reduce lead in drinking water.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. I ask unanimous consent that the bill be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

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

The bill (S. 3874) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3874

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Reduction of Lead in Drinking Water Act”.

**SEC. 2. REDUCING LEAD IN DRINKING WATER.**

(a) IN GENERAL.—Section 1417 of the Safe Drinking Water Act (42 U.S.C. 300g-6) is amended—

(1) by adding at the end of subsection (a) the following:

(4) EXEMPTIONS.—The prohibitions in paragraphs (1) and (3) shall not apply to—

“(A) pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or  
“(B) toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.”;

(2) by amending subsection (d) to read as follows:

“(d) DEFINITION OF LEAD FREE.—

(1) IN GENERAL.—For the purposes of this section, the term ‘lead free’ means—

“(A) not containing more than 0.2 percent lead when used with respect to solder and flux; and

“(B) not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

(2) CALCULATION.—The weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula: For each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with paragraph (1)(B). For lead content of materials that are provided as a range, the maximum content of the range shall be used.”.

(b) EFFECTIVE DATE.—The provisions of subsections (a)(4) and (d) of section 1417 of the Safe Drinking Water Act, as added by this section, apply beginning on the day that is 36 months after the date of the enactment of this Act.

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**SAFE DRUG DISPOSAL ACT OF 2010**

Mr. DORGAN. I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 5809 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 5809) to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. I ask unanimous consent that the substitute at the desk be

agreed to; the bill, as amended, be read a third time and passed; the title amendment be agreed to; the motions to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 4818) was agreed to.

(The amendment is printed in today’s RECORD under “Text of Amendments.”)

The amendment (No. 4819) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: “An Act to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.”.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5809), as amended, was passed.

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**CLARIFYING THE NATIONAL CREDIT UNION ADMINISTRATION AUTHORITY**

Mr. DORGAN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4036 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 4036) to clarify the National Credit Union Administration authority to make stabilization funding expenditures without borrowing from the Treasury.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Madam President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 4036) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4036

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STABILIZATION FUND.**

(a) ADDITIONAL ADVANCES.—Section 217(c)(3) of the Federal Credit Union Act (12 U.S.C. 1790e(c)(3)) is amended by inserting before the period at the end the following: “and any additional advances”.

(b) ASSESSMENTS.—Section 217 of the Federal Credit Union Act (12 U.S.C. 1790e) is amended by striking subsection (d) and inserting the following:

“(d) ASSESSMENT AUTHORITY.—

“(1) ASSESSMENTS RELATING TO EXPENDITURES UNDER SUBSECTION (B).—In order to make expenditures, as described in subsection (b), the Board may assess a special premium with respect to each insured credit union in an aggregate amount that is reasonably calculated to make any pending or future expenditure described in subsection (b), which premium shall be due and payable not later than 60 days after the date of the assessment. In setting the amount of any assessment under this subsection, the Board