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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, September 28, 2004, at 12:30 p.m.

Senate

MONDAY, SEPTEMBER 27, 2004

The Senate met at 1 p.m. and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God our King, You deserve our praise. Because of Your great mercy we approach Your throne today. You delight in righteousness and manifest Your mercy to those who keep their eyes on You. Thank You that each difficulty is an opportunity to see Your work, for You always bring us through trouble to a place of abundance.

Bless the Members of this body. Give them the wisdom to live at peace with each other and with You. Rescue them from discouragement and inspire them with hope. Bring them safely through the complex challenges of today and tomorrow, for You are their protection from life's storms.

Protect America from the traps of its enemies and keep this Nation strong. Bless this land with peace and happiness, as we celebrate each day as a gift from You.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 27, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. HAGEL assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will have a period of morning business until the hour of 2 p.m., and at 2 o'clock under the order from last week we will begin consideration of S. 2845, the intelligence reform bill sponsored by Senators COLLINS and LIEBERMAN. As we announced on Friday, amendments are in order to the bill today. However, no rollcall votes will occur. Any votes ordered with respect to any amendment will be delayed until tomorrow morning.

Following the opening remarks on the intelligence legislation, we hope some Members will be available to begin that amendment process.

I also encourage any Senator who anticipates offering additional amendments to the bill to contact the chairman and ranking member of the Governmental Affairs Committee. This is a critically important piece of legislation. It would be extremely helpful to have an orderly consideration of the bill, and we expect to do just that. With a full week of Senate business, we should be able to finish the bill this week.

We could have other legislative matters to complete over the course of this week, including such measures as a highway extension and a continuing resolution. Therefore, Senators should be prepared for full days and evenings as we wrap up these matters.

As everyone knows, the recommendations of the 9/11 Commission were released in late July. Immediately thereafter we began a very structured and orderly hearing process. A number of committees held hearings over the course of August. The Governmental Affairs Committee in a very orderly way had a markup and considered the range of recommendations and findings that have emerged. Now we have a bill that is being brought to the floor to be debated and appropriately amended, if necessary and as necessary, over the course of this week.

This will be a very full week. It is important that we start on this bill today, and we will continue with each and every day until we complete that bill.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

RECOGNITION OF THE ASSISTANT MINORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished assistant minority leader is recognized.

A TIME FOR ACCOMPLISHMENTS

Mr. REID. Mr. President, the Republican leader and the Democratic leader appointed Senator MCCONNELL and this Senator to work on the legislative aspects of the 9/11 Commission. If the cooperation among Members is as good as Senator MCCONNELL and I have had, we are going to be able to move forward on this bill, I think with bipartisanship. And we need to move forward. I think the 22 of us who serve on this task force feel that way.

We have to understand how much there is to do these next few days. There is a lot to do. We had a very productive last 2 weeks when most people expected a tremendous amount of partisanship this last little bit before we break for the elections. But from my observation it has been the opposite. There has been cooperation, and we have gotten a lot done. The next 2 weeks are important.

Also by virtue of the schedule we will have a difficult time this week because Tuesday we have an event for retiring Senators. That has been scheduled for months and there is no way out of that. That is Tuesday evening. Then, of course, Thursday is the first Presidential debate. It makes a lot of sense to me that we be in tune with that. I know there are some Senators who have events related to that. We will have to keep those things in mind.

I hope we can move forward on these matters which the leader has talked about. There is an opportunity to get a few things done with a limited time agreement. During the time we are working on this matter, we should go ahead and do that to prevent a lot of backlog next week before we head home before the recess.

I appreciate the leader's comments. I hope my observation is a correct one. We have been doing very well in spite of what some of the political prognosticators have said. This isn't a time for meltdown. This is a time for accomplishing a lot.

When the Chair announces morning business, we have two on the Democratic side who wish to speak, Senator HARKIN and Senator NELSON of Florida.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

NORTH PLATTE CANTEEN IN NORTH PLATTE, NEBRASKA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 161, which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 161) recognizing the outstanding efforts of the individuals and communities who volunteered or donated items to the North Platte Canteen in North Platte, Nebraska, during World War II from December 25, 1941, to April 1, 1946.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 161) was agreed to.

The preamble was agreed to.

Mr. FRIST. Mr. President, obviously this particular resolution recognizes the outstanding efforts of the individuals and communities that volunteered or donated items to the North Platte canteen in Nebraska during World War II, as the resolution was put forward by the distinguished Senator from Nebraska, the occupant in the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, when the Senate goes into morning business, I will yield 10 minutes on behalf of the Democratic leader to the Senator from Florida, Mr. NELSON, followed by 20 minutes to the Senator from Iowa, Mr. HARKIN.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved. Under the previous order, 25 minutes remain.

Mr. REID. Mr. President, I am wondering if we could have a delay of a few minutes so Senators on both sides will have a full 30 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with a full 60 minutes, with the time equally divided between the two leaders or their designees.

HEALTH CARE IN AMERICA

Mr. FRIST. Mr. President, I rise to speak on an issue we discussed last week that I will shed further light on, which is the broad topic of health care in America. I listened last week with some disappointment to the comments made in the Senate by the distinguished Democratic leader regarding health care costs. The senior Senator from Massachusetts repeated some of the Democratic leader's critique of the President's policies on health care. Because both of my colleagues left an incomplete picture, I take a moment to step back and give a more realistic assessment of where we are today and where we should be going.

America has the best doctors, the best nurses, the best hospitals, the best medical technology, the best medical breakthrough medicines in the world. There is absolutely no reason we should not have in this country the best health care in the world. The time has come for common sense—not Washington—to determine how patients interact with doctors and with hospitals. The time has come for health care professionals, not Government or HMO bureaucrats, to make health care decisions. The time has come to put patients and consumers back in charge.

Under the leadership of President Bush, we have taken measurable, concrete steps toward making quality health care more affordable, more available, and more reliable. Although much work remains to be done, a comprehensive, independent study confirms that we are, indeed, moving in the right direction.

One report released last week by the highly valued Lewin Group examined the costs of health care proposals put forward by President Bush and by Senator JOHN KERRY. This is the second nonpartisan independent analysis in recent weeks to compare the Presidential candidates' proposals side by side. It is the second independent study to find that the price tag of Senator KERRY's plan is twice—two times—what he claims. The Lewin Group study finds Senator KERRY's proposals would cost $1.25 trillion—not billion but trillion—over the next 10 years and still leave 20 million Americans uninsured. This is similar to the findings of another independent study released 2 weeks ago by the nonpartisan American Enterprise Institute. That study put the price tag of Senator KERRY's plan at $1.5 trillion.

We all know it is difficult and, yes, next to impossible to project the accurate cost of major Federal Government programs. We know all too well Washington has that annoying habit of underestimating the cost of just about everything it does and sticking taxpayers at the end of the day with that tab. However, if these two independent studies are even mildly accurate, Senator KERRY's estimates are off by half a trillion. Let me say that again: Senator KERRY's estimates for his health care proposals are off by half a trillion dollars. Talk about fuzzy math. To put that in perspective, that is more than the cost of the WIC Program, the Low Income Energy Assistance Program, the Ryan White Program, and the School Lunch Program combined. In

fact, it is more than the annual cost of the entire Medicare Program today.

So we are left with the perennial question, how will Senator KERRY pay for all of this? Who is going to get stuck with the tab this time? For starters, nearly all of the tax relief passed by Congress during the past 2 years would have to be repealed—all of that tax relief: No more marriage penalty relief; no more child tax credit; no more middle-class tax relief; no more death tax reduction. That means if you are a taxpayer, you will be paying a lot more and keeping a lot less of your hard-earned dollars. Yet still today Senator KERRY is telling the American people that his health care plan will save you money.

As a doctor, as a Senator, I am here to tell you it simply won't. For starters, he would have to raise an average of $1,115 per family in taxes for his proposal—unless, of course, he plans to add $1 trillion to the deficit. As a defender of the American taxpayer, both options are unacceptable. American families simply deserve better. This is one Washington-imposed solution we do not need. When it comes to health care, as a matter of principle, it should be about you. It should be about your doctor; it should be about your hospital, period. It should focus on you, the patient, the consumer. Senator KERRY's proposal is not a prescription for progress; it is a prescription for more Government-controlled health care.

Consider another finding from the Lewin report released last week. More than 21 million of the 25.2 million who would get health insurance under the Kerry plan would be forced into the Government-run Medicaid Program. As we all know, and it has been documented again and again, expanding Government-controlled programs can force people with good private health insurance coverage to lose it. In fact, an analysis released by the National Center for Policy Analysis concludes that 8 million people who are currently privately insured will lose this private coverage because of Senator KERRY's expansion of Medicaid. This is plain wrong. America deserves better.

In sharp contrast, we have the policy of President Bush, including those already enacted by this body and by Congress. They are focused on the patient. They are focused on the consumer. They are focused on you. As a matter of principle, we believe patients should be able to see the right doctor at the right time. As a matter of principle, we believe nothing should interfere with that doctor-patient relationship. As a matter of principle, we believe all Americans deserve affordable, available, and reliable quality health care.

Health care costs are soaring. We must address the root causes of these soaring costs. There are countless commonsense reforms we can pursue today to control your rising health care costs. At the top of that list is a reform all Americans can agree upon. We need to reel in personal injury trial lawyers whose frivolous lawsuits are crippling health care in communities all across America. The fact is, too many lawyers and too many frivolous lawsuits are making medicine much too expensive. This lawsuit abuse is driving good doctors out of practice and discouraging our very best and our very brightest from entering the profession. Doctors literally today are telling their children: Because of lawsuit abuse now and in the future, maybe it is best that you not even enter the profession of medicine. That presents a crisis.

Worse yet, lawsuit abuse is now threatening people's access to critical health service and is occurring in communities all across America. Did you know there are countless counties across this country where Americans no longer have access to their obstetricians to deliver babies? There are counties across this country where Americans no longer have access to trauma centers. Can you imagine?

According to the American Medical Association, this situation has reached true crisis proportions in 20 States, and that includes some of the most populous States in this country: Florida, Ohio, Pennsylvania, New York. Families in these States are not getting the quality care they deserve. I will tell you why. Out-of-control litigation is leading to out-of-control medical liability premiums, which leads to out-of-control costs. Too many doctors are being forced to close their doors simply because they can no longer afford to keep the insurance to keep their doors open.

If you have no doctor, that ultimately means no care; it means loss of access; it means loss of availability of care. If you want your baby delivered, it means an obstetrician may not be around. If you have an accident driving home from work today, the trauma center may not be open. That is a crisis. It is a crisis of cost; it is a crisis of access; it is a crisis of availability; it is a crisis of reliability.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent article.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From American Medical News, May 3, 2004]

LIABILITY CRISIS ENDS CENTURY OF DELIVERIES

(By Tanya Albert)

Perhaps one day the children of family physicians Jim Schwieterman, MD, and Tom Schwieterman, MD, will pick up where medical liability rates have forced the brothers to leave off.

The duo is scheduled to deliver their last baby in September, stopping a more than 100-year run of their family bringing children into the world in Mercer County, Ohio.

An in an ending that wouldn't have been more perfect if Hollywood had written the script, the brothers' last delivery will be the baby of a woman their father delivered.

The grandfather delivered the woman's mother. And the doctors' great-grandfather who founded the Maria Stein, Ohio, family practice, delivered the woman's grandmother.

But the Schwietermans—who their patients call Dr. Jim and Dr. Tom—don't want people to interpret their fate as a ''woe-is-me'' story.

They are saddened that they're being forced to give up a part of their practice that they love. But they'll continue to provide the cradle-to-grave primary care that patients in their rural county of 40,924 need.

They're telling their story because they worry that patients who need obstetrical care may not be able to get it in the future.

''Something is wrong when a legal situation is preventing us . . . from doing a service for very little income and when we have good outcomes,'' Dr. Tom said.

The brothers want people to know that even rural doctors in a practice with no lawsuit payouts in more than 100 years can be forced to cut back services to patients because of unaffordable medical liability rates. Only one lawsuit has ever been filed against the practice, and it was dropped a few days later.

''We've fallen victim to another outside force,'' Dr. Jim said.

THE OUTSIDE FORCES

Maria Stein's small-town atmosphere hasn't changed much over the years, Dr. Jim's and Dr. Tom's father, Don Schwieterman, MD, said.

Churches still stand in the community of crossroads. And Dr. Don said the town still clings tight to the values of the thrifty, hardworking German farmers who settled it.

''It's still an area where we have a very close relationship with patients,'' said Dr. Don, who retired in 1997.

But the practice of medicine has changed.

In Ohio, like so many other states, an increasing number of physicians have had to give up ''high-risk'' aspects of their practice because insurance has become unaffordable.

An Ohio State Medical Assn. survey released April 15 found that 80% of the state's physicians agree that rising premiums have directly impacted their patients.

The survey found that 34% of Ohio doctors expect to close their practices in the next two years if rates continue to climb. When asked to look forward three years, 58% plan to close.

''If only 10% of that happened, that's a huge crisis,'' said Bill Byers, OSMA's government relations director.

For the Schweitermans, giving up obstetrics was purely a business decision. When the fax for this year's premium came through, the insurance company was asking for $80,000 for the brothers to keep delivering the 60 or so babies a year that they average. That's a premium hike of about 150% over the past six years.

''It was a financial no-brainer,'' Dr. Jim said.

And given how long their family has been in the community, neither wanted to move 20 miles west to Indiana where tort reform is established and rates would have been 75% less.

''It doesn't make any sense that geography can play such a role,'' Dr. Tom said. ''[Rates] have nothing to do with the medicine you practice.''

SAVORING EVERY LAST MOMENT

It's beginning to hit the doctors that they only have five more months of deliveries left, and they find they're soaking up every moment in the delivery room.

''It's giving up one part of a job where there are tears of happiness,'' Dr. Tom said.

While both brothers would love to be able to offer obstetrics again, they realize that once they are out of it for a couple of years it will be difficult to go back. ''I feel like I'm

a baseball player stepping up to bat for the last time,'' Dr. Jim said.

Family physicians have been giving up deliveries for years. In 1978, 46% had hospital privileges to deliver babies, according to the American Academy of Family Physicians. In 2003, only 24% of FPs did deliveries.

While premiums have been an issue in some states, Thomas S. Nesbitt, MD, MPH, said there are a number of reasons for the decline, including the fact that more FPs are joining groups where the scope of practice is already established.

Dr. Nesbitt, associate dean for graduate education, continuing education and outreach at the University of California, Davis, said it's a loss to family medicine. ''The real tragedy is that family care is being fragmented.''

Dr. Don hopes the climate shifts so that one or more of his grandchildren may be able to enjoy the special experience of helping deliver children into the world.

''I would love that,'' he said.

Mr. FRIST. Mr. President, this article is about Dr. Jim Schwieterman and his brother, Dr. Tom Schwieterman. Both are family physicians who practice in Mercer County, OH. This month ''Dr. Jim'' and ''Dr. Tom,'' as their patients call them, will deliver their last baby, bringing an end to a distinguished 100-year run of their family providing care in delivering babies in their community in this corner of Ohio. The brothers' final delivery will be the baby of a woman who their father delivered. Their grandfather delivered the woman's mother, and their great-grandfather, who founded the family practice, delivered the woman's grandmother—a wonderful, rich tradition of caring in that community.

Why will this long and honorable family history of physician service come to an end? Because of out-of-control medical liability costs. The Schwieterman brothers simply cannot afford to deliver children because of the skyrocketing insurance fees they must now pay. It is a tragedy, and we all suffer in one way or another.

I was in Philadelphia earlier this month to speak to a group of physicians. Did you know that the average or the typical obstetrician/gynecologist now pays over $134,000 a year for liability insurance just for that privilege of being able to deliver babies? That is a tripling of the cost just since 2000, a $100,000 increase in just 4 years. It is not surprising that Pennsylvania is on the crisis list and physicians are leaving the State. That means diminished access for the people of Pennsylvania. And it applies to orthopedic surgeons, to trauma surgeons, to obstetricians.

The trial lawyer special interest lobby is next to impossible to beat at the State level, but, fortunately, some States are taking action. They see what is happening to their neighbors, and they know they could be next. Without restoring common sense to the legal system, it is just a matter of time before their health care is hijacked by the lawsuit lottery.

Take California, for example. Because California has acted and adopted comprehensive medical liability reform, including limits on pain and suffering awards, liability insurance costs for OB-GYNs in the Los Angeles area are less than half of what their colleagues pay in Pennsylvania, Illinois, or Florida. Everything else is more expensive in California but not health care.

Texas is another State pursuing comprehensive, commonsense legal reform. Recently, my distinguished colleague from Texas, Senator CORNYN, spoke passionately on the Senate floor about the need for lawsuit abuse reform. His State recently adopted medical liability reforms similar to those passed in California, and they are working.

Texas Medical Liability Trust, the largest medical liability insurer in the State, is now decreasing its rates for the second time in the 2 years since this reform was instituted. The new 5-percent cut comes in addition to a 12-percent reduction implemented earlier this year. These cuts are a direct result of Texas's constitutional amendment capping liability costs. According to the trust president and CEO, Thomas Cotton, 12,000 Texas doctors will save $34 million in a single year. This represents almost half of all Texas physicians. And when doctors pay less, patients pay less, premiums fall, and health care becomes more available for all. Before Texas passed the new liability law, the same insurer had raised rates over 146 percent between 1999 and 2003. Now that the medical malpractice insurance market has stabilized, 13 new insurance companies have entered the Texas market and doctors are returning to their practices. That is the way it should be.

The lesson is clear. If we adopt Federal reforms based on the commonsense laws that are working in States such as California and Texas, we will dramatically lower health care costs, in turn providing more affordable and more accessible health care to our communities, to the American people. That means our precious health care dollars will be spent in the operating room and not in the courtroom.

The Senate has tried three times during the 108th Congress to debate comprehensive medical liability legislation. We have tried three times to have a simple debate about the merits of ending the abuse of our health care system by personal injury trial lawyers and their frivolous lawsuits, and each time my colleagues on the other side of the aisle have filibustered, obstructed even consideration of this legislation. They block consideration of a solution. No action, no vote, no accountability, and no change is partisan politics at its worst. It hurts the doctor. It hurts the patient. It hurts the consumer. It hurts you. That is plain wrong and, again, America deserves better.

Senator KERRY and Senator EDWARDS have made it clear that they oppose the laws that are working today in California and Texas. They have also made it clear that as long as they are in the Senate, they will not even allow a vote on real reform. Why, you ask? Why oppose reforms that provide more health care services than ever before? Why oppose reforms that ensure doctors and hospitals will be more involved in providing care? Why oppose health care services that are more accessible and more convenient? And why oppose health care services that will be there when you need them? America deserves an explanation.

Finally, Mr. President, I want to comment on one other issue, and that is the new drug discount card available to seniors today.

I will turn to some compelling testimony that was provided to the Senate Finance Committee, I guess it was 2 weeks ago. I had the opportunity to chair that Finance Committee hearing, and I listened very carefully as Dr. Mark McClellan, who is the Administrator for the Centers for Medicare & Medicaid Services, discussed the Medicare Modernization Act, which this body passed, which was signed into law by the President. In his testimony, Dr. McClellan said that 4.3 million seniors have already enrolled in the Medicare Prescription Drug Discount Card Program, which was signed into law by President Bush last year. Over 1 million low-income seniors are today, because of this new law, receiving an additional $1,200 of free prescription drugs on top of the already deep discounts available to all seniors who have signed up for this card.

Those discounts are making a difference. They make a difference in the lives of those seniors. They make a difference in the health care of those seniors.

It is beyond belief how anyone could tell seniors, don't get that card; it is too confusing. That is wrong. We should be encouraging seniors to sign up for the card. Why? A recent Kaiser Family Foundation study reported that the Medicare drug cards are providing a savings of 17 to 24 percent off retail prices in urban and rural areas. That means if you have the card, you have a savings of 17 to 24 percent than if you don't have the card. How could anybody tell our seniors today, don't get the card, with those demonstrated savings?

A Lewin Group study analyzing the 150 drugs most frequently used by seniors found that people participating in the Medicare drug discount program can, beginning this year, save an average of well over $1,200 on their prescription drug purchases with this card.

A study by Consumers Union found that in California, the Medicare prescription drug discount cards provided drug prices that are even lower than the State's Medi-Cal program. I say ''even lower'' because the Medi-Cal prices are 20 percent below those typically available at retail pharmacies.

The Democratic leader indicated last week that too little has been done to control prescription drug costs in America. The facts—study after

study—show otherwise. In my colleague's own State of South Dakota, 40,000 Medicare beneficiaries who do not have prescription drug coverage stand to gain the most from that drug discount card; 28,000 South Dakotans are eligible for an additional $1,200 over the next 14 months. How can they be told not to sign up for that card?

The discount drug card is only the beginning. In the year 2006, all Medicare beneficiaries will be eligible for prescription drug coverage under the Medicare program. Tens of thousands of South Dakota's seniors and citizens with disabilities will receive coverage with no premiums, no deductibles, no gaps in coverage, and copayments of no more than $2 for generics and $5 for brand-name drugs.

There is a better way to provide affordable prescription drugs and health coverage to the American people. Texas and California have chosen the right path. I ask: When will Senator KERRY and Senator EDWARDS choose theirs? Make no mistake, we need health care reform now. Costs are way too high today, and they continue to rise. Quality chasms and health care disparities exist in our health care sector today. But I can tell you from personal experience—both in medicine for 20 years as a physician and as a policymaker today—these are tough and challenging issues. Reform is a challenge that is not easy, but we have begun to address it and we will continue.

The health care challenge is complicated, and it is much more complicated than a lot of politicians would have you believe. They simply are not going to be solved overnight.

Let us pledge today to get it right the first time. Let us pledge today to give that power back to the patients. Let us pledge to tackle the challenges today and to stop the partisan politics and to stop the foot dragging that becomes an embarrassment to this institution and a source of frustration for the American people.

With the President's leadership and the bipartisan reforms that we have enacted during the past several years, we are on the right track. A lot of work remains to be done. We need to pass medical liability reform. We need to expand those health savings accounts that are now the law of the land. We need to give small businesses the ability to ban together to buy more affordable health care coverage for their hard-working employees. Because as a matter of principle, every family deserves access to affordable, reliable, and quality health care that can never be taken away.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

HEALTH CARE

Mr. NELSON of Florida. Mr. President, the fourth hurricane has visited my State, and that is the subject of my remarks.

I am compelled to respond to some of the statements the majority leader has made about the condition of medical malpractice in the country.

One of the great privileges of being a part of the Senate, it being the greatest deliberative body in the world, is out of the discussions of ideas, hopefully truth can ultimately be achieved. A number of the statements the majority leader has made are giving his point of view, one side of the argument. Indeed, it is absolutely no secret that there is a medical malpractice insurance crisis in the country.

As the majority leader would have it characterized, it is all as a result of lawyers and excesses. Are there excesses? Yes, there are. And those ought to be reformed in the system. But in outlining how you want to solve the problem of bringing down the insurance premiums for doctors to protect themselves with medical malpractice, what is proposed by the majority leader leaves the main entity out of the solution, and that is the insurance company.

The doctors have characterized this—indeed, some lawyers—as a fight between doctors and lawyers. But they have left out the main party, if we are going to reach a solution. I speak from a little bit of experience, having been the elected insurance commissioner of Florida for 6 years. I found myself, interestingly, as insurance commissioner, denying rate decreases for insurance companies that were medical malpractice companies because they were wanting rate decreases so they could get additional market share, but it was not financially prudent. It was not actuarially sound. This was during the 1990s, when the stock market was robust.

Insurance companies make money in two different ways: One, with regard to their premiums, which ought to be actuarially sound for the risk they are insuring; and two, by investing those funds in prudent investments. And in the decade of the 1990s, those investments were paying off handsomely for the entire business community, including insurance companies.

But what happens when the stock market turns south and the return on their investments is not there? Then an insurance company is supposed to have its premiums so that it can be actuarially sound so it can pay its claims due to the risk it has assumed.

Well, a lot of those companies started getting in difficulty because they were not getting the returns on their investment. So they had to start yanking their premiums up.

All of this is to say that if we want a real solution to this problem, we have to get doctors and hospitals, lawyers and insurance companies all in the room in order to solve the problem.

The majority leader made reference to the State of California as if it were just a cap on lawyers' fees. That is not the history of the State of California. California not only did that, but they also put a limit on the increases on insurance premiums as well. So when we have a discussion, we should have a discussion of an overall comprehensive way to solve this problem. That is what I would like to see—this being less partisan, less ideological, less special interests, and talk about a solution where we can bring all parties in and get something done. That should be done at the State level. What we have seen from it is that States that have taken up legislation like that do not bring all of the parties to the table to find a viable solution.

I felt compelled to respond to the majority leader's comments because in the debate that ought to occur in this body, it ought to be a comprehensive debate showing all sides to the argument.

FLORIDA'S HURRICANES

Mr. NELSON of Florida. Mr. President, I came here because, as most everybody in the country knows, an unusual meteorological phenomenon has occurred in my State where it has now been battered by four major hurricanes. Part of the State now has been battered in the same area—namely, south of Orlando, southeast of Lakeland. In that area, it has been traversed now by hurricane strength winds from three hurricanes—first Charley, then Frances, and now this last one. The third hurricane, Ivan, took off for a different part of the State. It hit west Florida in the Pensacola area, as well as eastern Alabama, with such force of not only 138 mile per hour winds but also with that surge of water called a tidal surge, which was so significant that it went all the way up Pensacola Bay and, in fact, lifted up sections of the Interstate 10 bridge—huge, heavy concrete sections—lifted it up by the pressure of that water and deposited it on the bottom of Pensacola Bay. That is the kind of force and fury of Mother Nature that has been visited upon my State. So what do we need to do? Well, there is one reason for the Federal Government, other than the protection of the national defense of this country, and that is also to provide during times of disaster.

FEMA ran out of money several weeks ago. We came in here and we passed an emergency appropriations bill of $2 billion to try to fill up their coffers. But since then, we have passed several things appendaged to the Homeland Security Appropriations bill, plus receiving several acknowledgements and commitments to, in particular, this Senator from Florida from the esteemed chairman of the Appropriations Committee of adding additional funds in the conference that is now occurring on the Department of Homeland Security funding bill.

But as of yet, we have seen an appropriation request come from the White House that is just not going to solve the problem. For example, the Commissioner of Agriculture of Florida

said that for the first two hurricanes, we are going to have $2 billion of losses just in agriculture. Yet all we have announced out of that $2 billion requested by the Commissioner of Agriculture—who happens to be in the same party as the President—all we have seen is the Secretary of Agriculture offer a package that is only one quarter of what the Commissioner of Agriculture of Florida has asked for. That is just not going to do it.

Since the first two hurricanes, we have been hit by a third hurricane and, a day ago, by a fourth hurricane. In that third hurricane, there is going to be a big loss of the cotton and peanut crops up in the panhandle. With the fourth, what was left of the citrus crop across central Florida is going to be all gone because these ferocious winds are going to drop to the ground any fruit that was remaining. This is an election year, but this should not be partisan.

People are hurting and they need help, they need it now. I ask the White House, this administration, the Department of Agriculture, and all those myriad of agencies to come forward and help us. We need that help right now.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, how much time am I allotted?

The ACTING PRESIDENT pro tempore. The Senator from Iowa has 19½ minutes.

Mr. HARKIN. I thank the Chair.

HEALTH CARE

Mr. HARKIN. Mr. President, I want to talk a little about Iraq. Before that, I have a responsibility to respond to the majority leader's comments on health care today. Sometimes you hear things on the Senate floor and you have to stop and say, did I really hear that or is that just something I thought?

I was really listening to the Republican leader talk about Republican support for health care—meaningful health care. Listening to the Republican leader talk about Republican support for meaningful health care is like listening to the big tobacco companies talk about the need for cancer research. How do I say that? Because the problems of cancer basically are caused by the big tobacco companies. The problem that we don't have a meaningful health care system in America today—people-based, patient-based, preventive care-based—is because of Republican Party policies.

It has been very clear for a long time that the Republican Party has opposed any kind of meaningful people-based health care program. After all, it was our colleague, former Senator Robert Dole, who during his Presidential campaign in 1996 bragged he had voted against Medicare, as most Republicans did in the mid 1960s. Now, again, the majority leader says that the elderly are not signing up for these discount cards and we ought to be promoting them, sort of like a cheerleader. Maybe they are all taking their cue from the fact that President Bush was a cheerleader in college, so now we have to be a cheerleader. We heard that we have to cheerlead, regardless of what the facts are. There is a reason the elderly are not signing up for this card. It is meaningless. It doesn't do anything for them. Yet we are supposed to go out and be a cheerleader for them?

Well, the Republicans rammed through their health care program. The elderly get a meaningless card, and the pharmaceutical companies got $12 billion in payments to entice them into this program. How about giving the elderly in our country $12 billion?

I sum it up by saying that President Bush does have—I want to be fair to him—a health care plan. It is very simple and straightforward: Pray you don't get sick. That is President Bush's health care plan.

JOHN KERRY has a sound health care plan: One, to overturn the ban on Medicare bidding down the prices from pharmaceutical companies. Again, that was in our last Medicare bill. Republicans insisted on it. They pushed it through. Right now, Medicare cannot bargain with the large pharmaceutical companies to bid down the prices. Why? Because they are paying in the bill and they are forbidden to do so. What kind of sense does that make? The Veterans' Administration can bargain down the price of drugs with pharmaceutical companies but not Medicare. That makes no sense.

One of the first things a President KERRY would do is get rid of that ban and let Medicare get the price of drugs down for the elderly.

Secondly, a President KERRY will say we have to allow for the reimportation of drugs from Canada. We have a free-trade agreement with them on cars, clothes, pens, ties, and everything else, except for one thing—drugs. Well, it is time we have a free-trade agreement on drugs and let us reimport drugs from Canada.

The third part of the Kerry program is to provide a tax credit for small businesses—up to 50 percent—so they can carry a health care policy on their workers. That is so important for us in rural America, where most of our people work for small business.

Fourth, Senator KERRY says we ought to open the Federal Employee Health Benefit Program to everybody in America. That is a good program. It allows you to pick your doctor and hospital, and it allows you to change your plan if you would like to do so. It is a great program. I ought to know, I am in it. So is President Bush. So is Vice President CHENEY. So is every Senator on this floor. If it is good enough for us, it ought to be good enough for the American people.

The last thing in the Kerry program for health care is to double the National Health Service Corps to get more doctors, physicians' assistants, nurse practitioners, and others serving in our rural and underserved areas and to increase the number of community health centers in America.

So while I am proud JOHN KERRY has a forward-looking, comprehensive health care plan that will be meaningful, that will reduce drug prices, and that will get affordable, reliable health care to the American people, President Bush is silent. Again, President Bush's health care plan is simple: Pray you don't get sick. That is not enough. We need better than that.

IRAQ

Mr. HARKIN. Mr. President, I also wish to speak for a few minutes about the mess in Iraq. Last week, Prime Minister Iyad Allawi came to Washington to join in President Bush's campaign of relentless happy talk about the war in Iraq. President Bush says:

We're making progress. We're making progress.

Meanwhile, back in the real world—the world that American soldiers confront on the ground in Iraq—the chaos gets worse and worse. Entire regions and many provincial capitals are under the insurgents' control. Virtually every day we see car bombings, kidnappings, assassinations, beheadings.

As we learned last week, the CIA has produced a formal National Intelligence Estimate that says that, at best, the current level of violence will continue and, at worst, Iraq will plunge into a civil war. As Secretary of State Colin Powell acknowledged yesterday, it is getting worse in Iraq. But amazingly, President Bush insists that this mess in Iraq has made us safer, and the President and his political allies have been relentless in using the war on terror for their own electoral purposes.

Their message to the American people is simple: Be afraid, President Bush will protect you; his opponent will not.

Vice President DICK CHENEY also took this line of attack 2 weeks ago when he darkly warned with his Darth Vader-type voice that if JOHN KERRY is elected President, then ''the danger is we'll get hit again, that we'll be hit in a way that will be devastating.'' That was Vice President CHENEY.

Last Tuesday, the senior Senator from Utah, Mr. HATCH, said that terrorists ''are going to throw everything they can between now and the election to try and elect Kerry.''

Last Monday, Deputy Secretary of State Richard Armitage said terrorists in Iraq ''are trying to influence the election against President Bush.''

If these gentlemen have such excellent access to the terrorists' thoughts, they are not doing a good job of turning that knowledge into effective policy against the terrorists. At key junctures, this administration has made disastrously wrong choices. Repeatedly, these decisions have played into the terrorists' hands. Let's look at the record.

It is a fact that the September 11 attacks happened despite repeated warnings to Mr. Bush from the CIA that al-Qaida was planning to attack America. Those warnings included an August 8, 2001, President's daily briefing which he received while he was vacationing in Crawford, TX. The report was titled ''Bin Laden Determined to Strike in the U.S.'' That is not a subhead or a sentence in the memo, that is the title of the memo: ''Bin Laden Determined to Strike in U.S.''

Let's look at the rest of the record.

On President Bush's watch, the U.S. botched the single best opportunity to capture bin Laden at Torah Borah in Afghanistan. A political decision was made to allow Afghan warlords to carry the brunt of that siege, and bin Laden escaped.

It was President Bush who 3 years ago pledged to smoke bin Laden out of his cave, but has utterly failed to do so. Instead, by successfully defying President Bush, bin Laden has become a folk hero across the Muslim world. He has attracted not only thousands of new recruits, but dozens of imitators, new bin Ladens who are forming their own terrorist organizations to attack America and Americans.

It was President Bush who diverted our military intelligence resources and certain military hardware, such as the Predator aircraft, the unmanned aerial vehicles, took them out of Afghanistan, away from the hunt for bin Laden and sent them to Iraq.

It was President Bush whose taunt, ''Bring it on,'' did indeed bring it on—a nationwide insurgency in Iraq, an urban guerrilla war that has trapped our Armed Forces in a quagmire.

It was President Bush whose unilateral approach on Iraq alienated many of our oldest allies and turned world opinion against the United States.

It was President Bush whose invasion and occupation of the second largest Arab country has outraged much of the Muslim world and has been a recruiting bonanza for Islamist terrorists.

This is an astonishing record of mistakes, misjudgments, and mismanagement. It is an astonishing record of George W. Bush again and again playing into Osama bin Laden's hands. It is like Wile E. Coyote chasing the Road Runner, only this time it is not funny. It is a colossal tragedy. It has put our Nation at even greater risk of terrorist attack.

Ironically, President Bush's father, George Herbert Walker Bush, warned against the folly of invading and occupying Iraq. Listen to this. On February 28, 1999, speaking to a group of Desert Storm veterans at Fort Myer, VA, former President Bush said:

> Had we gone into Baghdad—we could have done it, you guys could have done it, you could have been there in 48 hours—and then what?

The first President Bush continued:

> Whose life would be on my hands as the Commander in Chief because I, unilaterally, went beyond international law, went beyond the stated mission, and said we're going to show our macho? We're going into Baghdad. We're going to be an occupying power—America in an Arab land—with no allies at our side. It would have been disastrous.

That is the first President Bush. That is not me. That is an exact quote from the first President Bush, 1999. I would say to this President: You do not have to listen to us, just listen to your father. He would have told you what you are getting into in Iraq.

This is what his father said:

> We're going to be an occupying power—America in an Arab land—with no allies at our side. It would have been disastrous.

It is disastrous. Of course, we heard the same prophetic warnings from Brent Scowcroft, James Baker, and other foreign policy experts. But this President Bush and his partner DICK CHENEY and the neoconservative intellectuals thought they knew better. They reveled in words such as ''slam dunk'' and ''cakewalk.'' And so now the disaster that Bush 41 warned against has become a reality under Bush 43.

The Iraq invasion has set back, rather than advanced, the war on terrorism and al-Qaida. Osama bin Laden remains at large—an imminent danger to our homeland. Our Armed Forces are bogged down in Iraq, with casualties rising above 8,000, and they are not able to respond to real threats to the United States. Our moral authority and credibility on the world stage are at rock bottom.

The other day I was watching former President Carter at the Carter Center answer a question. He said he has been, I believe I am not mistaken, in over 120 countries. He said never in the history of the United States has our country been at such low esteem and moral authority in the rest of the world—never in the history of our country.

Despite President Bush's blustery threats about the so-called axis of evil, on his watch, North Korea has acquired nuclear weapons and Iran appears to be proceeding with impunity to develop its own nuclear weapons. This is an extraordinary record of mistakes, misjudgments, miscalculations, and missed opportunities.

As a consequence of President Bush's choices over the last 4 years, America is weaker, America is less secure, America is more vulnerable.

I say to my friend and colleague from Utah, whom I quoted earlier, look at the record. Look at this record and come to only one conclusion: The single best recruitment poster for al-Qaida and the terrorists is our policy in Iraq. Quite frankly, the architect of that policy, the person who is carrying it out, is President George W. Bush. No, it is not JOHN KERRY, I say to my friend from Utah. It is not JOHN KERRY. George W. Bush's reckless, stubborn policy is the single best recruiter for al-Qaida, and this must end so that our people can truly be made secure; that we can go after the terrorists; that we can get out of this quagmire in Iraq; that we can once again become the moral authority, the shining city on a hill that America has been to the rest of the world. I am sad to say it will not happen on this President's watch. That is why a change is in order.

I ask unanimous consent that an article that appeared September 26, 2004, in the Los Angeles Times be printed in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Sept. 26, 2004]

AL QAEDA SEEN AS WIDER THREAT

(By Douglas Frantz, Josh Meyer, Sebastian Rotella and Megan K. Stack)

RABAT, MOROCCO.—Authorities have made little progress worldwide in defeating Islamic extremists affiliated with Al Qaeda despite thwarting attacks and arresting high-profile figures, according to interviews with intelligence and law enforcement officials and outside experts.

On the contrary, officials warn that the Bush administration's upbeat assessment of its successes is overly optimistic and masks its strategic failure to understand and combat Al Qaeda's evolution.

Even before the Sept. 11 attacks, Al Qaeda was a loosely organized network, but core leaders exercised considerable control over its operations. Since the loss of its base in Afghanistan and many of those leaders, the organization has dispersed its operatives and reemerged as a lethal ideological movement.

Osama bin Laden may now serve more as an inspirational figure than a CEO, and the war in Iraq is helping focus militants' anger, according to dozens of interviews in recent weeks on several continents. European and moderate Islamic countries have become targets. And instead of undergoing lengthy training at camps in Afghanistan, recruits have been quickly indoctrinated at home and deployed on attacks.

The United States remains a target, but counter-terrorism officials and experts are alarmed by Al Qaeda's switch from spectacular attacks that require years of planning to smaller, more numerous strikes on softer targets that can be carried out swiftly with little money or outside help.

The impact of these smaller attacks can be enormous. Bombings in Casablanca in May 2003 shook Morocco's budding democracy, leading to mass arrests and claims of abuse. The bombing of four commuter trains in Madrid in March contributed to the ouster of Spain's government and the withdrawal of its troops from Iraq.

Officials say the terrorist movement has benefited from the rapid spread of radical Islam's message among potential recruits worldwide who are motivated by Al Qaeda's anti-Western doctrine, the continuing Palestinian-Israeli conflict and the insurgency in Iraq.

The Iraq war, which President Bush says is necessary to build a safer world, has emerged as a new front in the battle against terrorism and a rallying point for a seemingly endless supply of young extremists willing to die in a jihad, or how war.

Intelligence and counter-terrorism officials said Iraq also was replacing Afghanistan and the Russian republic of Chechnya as the premier location for on-the-job training for the next phase of violence against the West and Arab regimes.

''In Iraq, a problem has been created that didn't exist there before,'' said Judge Jean-Louis Bruguiere of France, dean of Europe's anti-terrorism investigators. ''The events in Iraq have had a profound impact on the entirety of the jihad movement.''

Officials warn that radical Islam is fanning extremism in moderate Islamic countries such as Morocco, where the threat of terrorism has escalated with unexpected speed and ferocity, and re-energizing adherents in old hot spots such as Kenya and Yemen.

In recent weeks, police thwarted an attack against a U.S. target in Morocco at the last minute, and concerns have increased sharply about the possibility of attacks in Kenya, U.S. and foreign officials say.

The Madrid bombings and arrests in Britain this summer highlight Europe's emergence as a danger zone. Long used by extremists as a haven for recruitment and planning attacks elsewhere, the continent now is believed to be a target itself, especially countries backing the Iraq war.

Al Qaeda's transformation since the destruction of its Afghan training camps nearly three years ago has been chronicled extensively. Arrests and killings of senior leaders and the shutting down of major avenues of financing further fragmented the network.

Bush said at the Republican National Convention this month that more than three-quarters of Al Qaeda's leadership had been killed or captured.

Among those arrested are Khalid Shaikh Mohammed, alleged planner of the Sept. 11 attacks, and Abu Zubeida, who oversaw the global network and helped recruit for the training bases in Afghanistan.

Administration officials contend that information from interrogations helped prevent new attacks and unravel the network, leaving Al Qaeda too diminished to carry out a strike as complex as that of Sept. 11.

Polls indicate that voters trust Bush to handle the fight against terrorism better than his Democratic challenger, Sen. John F. Kerry.

A far less reassuring assessment of the condition of Islamic extremism emerged from the interviews with government intelligence officials, religious figures and counter-terrorism experts in the United States, Europe, the Middle East and North Africa.

Although opinions are not unanimous and ambiguities remain, there is a consensus that Al Qaeda's leadership still exerts some control over attacks worldwide. However, veterans of the extremist movement have demonstrated a new autonomy in using the group's ideology and training techniques to launch attacks with little or no direct contact with the leaders.

''Any assessment that the global terror movement has been rolled back or that even one component, Al Qaeda, is on the run is optimistic and most certainly incorrect,'' said M.J. Gohel, head of the Asia-Pacific Foundation, a London think tank. ''Bin Laden's doctrines are now playing themselves out all over the world. Destroying Al Qaeda will not resolve the problem.''

U.S. and foreign intelligence officials said the Bush administration's focus on the ''body count'' of Al Qaeda leaders and its determination to stop the next attack meant comparatively few resources were devoted to understanding the threat.

Michael Scheuer, a senior CIA official, said in an interview that agents wound up ''chasing our tails'' to capture suspects and follow up leads at the expense of countering the rapid spread of Al Qaeda and the international jihad.

Scheuer, chief of the CIA's Bin Laden unit from 1996 to 1999, now plays a broader role in counter-terrorism at the agency. He is the author of ''Imperial Hubris,'' a recent book that criticized U.S. counter-terrorism policy; the interview with him occurred before the CIA restricted his conversations with reporters.

Another counter-terrorism expert who works as a consultant for the U.S. government and its allies said Scheuer's criticism had been echoed elsewhere.

''I think they're deluged with the immediate stuff and I think their horizons are also very, very short-term,'' said the consultant, who spoke on condition of anonymity. ''One of the biggest complaints I hear when talking to intelligence services around the world is that the Americans are so interested in the short term, preventing attacks and getting credit.''

Anti-terrorism experts who fault the administration's strategy and its optimism argue that concentrating on individual plots and operatives obscures the need to address the broader dimensions of Islamic extremism and makes it impossible to mount an effective defense.

The Al Qaeda movement now appears to be more of an ideology than an organization, spreading worldwide among cells inspired by the Sept. 11 attacks.

Adherents generally share a few basic principles: an overarching belief that Muslims must take up arms in a holy war against the Judeo-Christian West, a profound sense of indignation over the deaths of Muslims in Palestinian territories and Iraq, and a conviction that secular rulers should be replaced by Islamic governments.

But beyond that, their concerns often splinter along the lines of geography, local politics and the intricacies of Islamic thought. A Moroccan is unlikely to pursue the same targets or even agree with the strategy of his Saudi counterparts. Saudis, in turn, are fighting bitterly among themselves over whether it's more important to battle the royal family at home or the Americans in Iraq.

The inadequate response to the threat is not unique to Washington.

European officials also see gaps in their policies, particularly when it comes to understanding the complexity of the situation, said Gijs de Vries, the counter-terrorism coordinator for the European Union.

''Al Qaeda is increasingly being invoked as an ideological motivation of Islamic radicals,'' he said. ''There is a type of diffuse jihadism, which on the one hand consists of loosely structured small cells and on the other hand ideology.''

SHIFT TO SMALLER STRIKES

A new cadre of second-generation Al Qaeda commanders has compensated for the damage to the network by stepping up the pace of attacks with smaller strikes on soft targets.

The strategy relies on a limited number of veteran operatives trained in Afghanistan who function with a high degree of autonomy. They recruit foot soldiers through mosques, local groups and the Internet, then provide on-site training in bomb-making and tactics.

Senior counter-terrorism authorities in the U.S. and Europe say they are not certain how much central control is exercised over these independent operators—or even whether they are linked to one another in a formal manner.

But officials said evidence indicated that attacks in Saudi Arabia, Morocco and Turkey during the last 16 months were part of a loosely coordinated pattern that could be traced to Bin Laden and his lieutenants.

Based primarily on intercepted communications from Iran to Saudi Arabia by U.S. listening posts, U.S. and European officials said orders for the suicide bombings in the Saudi capital of Riyadh on May 12, 2003, came from an Al Qaeda fugitive in Iran.

The officials said the most likely suspect was Saif Adel, a former Bin Laden bodyguard now believed to be Al Qaeda's military commander. But Western security officials said Adel was only one of numerous Al Qaeda figures granted haven by Iran's Revolutionary Guards. Iran denies that.

Extremists behind a string of attacks in Saudi Arabia since then operate with a large degree of independence, but Saudi security officials said the radicals retained links with Al Qaeda leaders in Iran and elsewhere by telephone and courier.

Authorities in Morocco and Europe said the go-ahead for the Casablanca suicide attacks on May 16, four days after the Riyadh bombings, was given at a meeting of Al Qaeda commanders in Istanbul, Turkey, in January 2003. They also said the young men who died carrying out the five nearly simultaneous bombings were recruited and trained by an Al Qaeda veteran.

Turkish extremists who bombed two synagogues, the British Consulate and the headquarters of a London-based bank in Istanbul in November 2003, killing more than 60 people, received money and advice on targets from Al Qaeda and its associates, according to testimony this month in the trial of 69 suspects.

One of the defendants, Adrian Ersoz, testified that he arranged a meeting in August 2001 in Afghanistan between Habib Akdas, the leader of the Turkish cell, and Mohammed Atef, also known as Abu Hafs Masri, a top Bin Laden lieutenant later killed in a U.S. airstrike in Afghanistan.

He said that Akdas was promised money from Al Qaeda but that after Afghanistan's Taliban regime collapsed, the cell leader turned for financial help to Al Qaeda representatives in Iran and Syria, whom Ersoz did not identify. Akdas fled to Iraq immediately after the Istanbul bombings and participated in the kidnapping of several Turkish workers there, Turkish authorities said.

These smaller strikes cost relatively little, even compared with the modest $500,000 price tag for Sept. 11, indicating that the network has adapted to the clampdown on its financing methods.

Mohammed Bouzoubaa, Morocco's justice minister, said the bombings in Casablanca, which killed 45 people, cost $4,000.

Top suspects in the Madrid bombings have long-standing ties to Al Qaeda cells in Spain, Morocco and elsewhere. Still, six months after the bombings, investigators have no evidence that the planners received instructions or money from outside for the attacks that killed 191 people.

The methods used in Casablanca and Madrid illustrate what a senior European counter-terrorism official described as ''the most frightening'' scenario: local groups without previous experience, acting with minimal supervision from an interchangeable cast of Al Qaeda veterans.

''By now we have no evidence, not even credible intelligence, that the Madrid group was steered, financed, organized from the outside,'' he said. ''So that might be the biggest success of Bin Laden.''

In the past, Al Qaeda militants were mostly educated young men in their mid–20s and older who had strong religious convictions and middle-class backgrounds. They trained extensively at camps in Afghanistan and their missions were planned over months or years.

Recent attackers were drawn from a larger pool of alienated young men, reflecting the wider tug of Al Qaeda's doctrine, Bin Laden's status as a hero to some Muslims and fury at American foreign policy.

Some experts, like Richard Clarke, the former White House counter-terrorism chief, publicly blame the war in Iraq for strengthening the motivation of radical Islamic groups globally. Others still in governments around the world make the point privately, saying that the conflict in Iraq has broadened support for extremism.

De Vries, the EU counter-terrorism chief, acknowledged only that there were differences over the impact of Iraq. ''Public opinion in many countries has not been convinced that the war in Iraq has helped the war on terror as defined by some,'' he said.

The bombers in Casablanca were uneducated slum dwellers between the ages of 20 and 24 with little previous involvement in extremism, religious figures and people who knew them say.

The Moroccan immigrants who spearheaded the Madrid attacks were shopkeepers and drug dealers. They embraced a theology that justified their crimes as part of their jihad.

The sense that an angry young man anywhere could become the next suicide bomber, the absence of training camps and only intermittent contact with any central command structure pose tough challenges for law enforcement.

''Terrorist culture has been disseminated,'' said Pierre de Bousquet de Florian, director of France's intelligence agency. ''Technical knowledge has spread.''

Even U.S. officials, most of whom are more optimistic than their foreign counterparts, acknowledged that there were too many blank spots for them to understand the full scope of the threat.

''From what we have seen and learned, particularly in light of the recent arrests, we have made enormous strides in knocking out Al Qaeda,'' a senior counter-terrorism official in the Bush administration said. ''That said, we believe there are operational people who have moved up, with operational expertise, and that there remains some sort of loose command and control structure.''

Among the mysteries is whether Bin Laden and his second-in-command, Ayman Zawahiri, still play operational roles. Another question is the extent of coordination between Al Qaeda's leadership and the attacks in Iraq.

The role that Jordanian militant Abu Musab Zarqawi plays in Iraq has been cited repeatedly by the administration as evidence of an Al Qaeda-Iraq link, but many counter-terrorism officials said he had long operated independently.

His activities in Iraq have boosted his status among Islamic extremists and led to what investigators suspect is an even greater independence from Bin Laden.

Zargawi's reach extends beyond the carnage in Iraq and makes his offshoot of Al Qaeda an urgent threat. As the former chief of a training camp in Afghanistan, he has alliances with militant groups from Chechnya to North Africa.

European counter-terrorism officials blame him for several thwarted attacks in Europe and suspect that he helped plan the Casablanca and Istanbul bombings.

Investigators believe that there are ties between suspects in the Madrid attacks and the Zarqawi network. They have turned up evidence of an operational and ideological axis that links fighters traveling to Iraq from Europe and North Africa—and raises the threat that they will bring the mayhem home with them.

In June, Italian police arrested Rabei Osman Sayed Ahmed, an Egyptian suspected of playing a lead role in the Madrid attacks.

According to transcripts of electronic eavesdropping, police also learned of Ahmed's involvement in a European network sending fighters to Iraq to carry out suicide bombings.

''All my friends are dying, one after another,'' he said during a conversation in his Milan hide-out May 26. ''I know so many who are ready. I tell you there are two groups ready for martyrdom. The first group leaves the 25th or 20th of next month for Iraq via Syria.''

French authorities opened an investigation Wednesday into a network involved in recruiting extremists and helping them get to Iraq, but so far the flow of such foreigners does not approach the thousands who went to Afghanistan before 2001.

Still, European investigators are particularly concerned about the increasing movement of North Africans—some from Europe but most from their homelands—to fight in Iraq and what it means for the future.

''Our fear is that they go and become a threat to our countries,'' said De Bousquet de Florian, the French intelligence chief. ''We pay a great deal of attention because once these guys have gone to Iraq to train, they know how to use weapons and explosives. That's the first level: Iraq as a new Afghanistan, a Chechnya.''

Determining who is behind the attacks in Iraq is difficult. U.S. military and Iraqi authorities blame much of the violence on foreign fighters, and Saudis, Egyptians and other nationals have been seen saying farewell in videotapes before suicide bombings. A Saudi captured after a botched car bombing in Baghdad recently said he had been slipped across the border, given $200 and keys to a car and told to attack a military convoy.

But some say pinning most of the suicide attacks on Zarqawi's network and foreign fighters in general ignores the insurgency's home-grown aspects and overlooks growing links between Iraqis and radical Islam.

RADICAL ISLAM ADAPTS

The new model of Islamic terrorism was born May 16, 2003, in Sidi Moumen, a shantytown of 200,000 people on the outskirts of Casablanca. That day a band of unemployed young men from the neighborhood, most of whom lived on the same narrow street, carried out five nearly simultaneous attacks.

The targets were in the heart of Casablanca: a Jewish community center, a Spanish restaurant and social club, a hotel, a Jewish cemetery and a Jewish-owned Italian restaurant. The death toll was 45, including 12 of the 14 bombers.

Morocco's role in Islamic extremism previously had been as a way station for jihadis entering and leaving Europe, and investigators said the emergence of Moroccans as front-line operatives demonstrated the ability of radical Islam to adapt.

In unraveling the Casablanca plot, Moroccan and foreign authorities discovered that the bombers had no previous ties to extremism, which meant spotting them in advance would have been almost impossible, even in a country where paid informants lurk in almost every neighborhood.

Moroccan authorities identified Karim Mejatti, a Moroccan veteran of Afghanistan, as the person who recruited them and received a green light for the attacks in the meeting in Istanbul. Unlike his recruits, Mejatti is educated and spent time in the U.S. in the late 1990s. He remains a fugitive.

On camping trips in the dusty hills outside Casablanca, Mejatti indoctrinated the men and taught them to make explosives, authorities said. Al Qaeda videos on making bombs with TATP, the group's trademark explosive, were later discovered in their homes. They rode to the attacks in taxis with homemade explosives stuffed into backpacks.

''They did not need sophisticated equipment or means,'' said Bouzoubaa, the justice minister. ''They made their own explosives.''

Mejatti recruited the men in November 2002, and authorities were struck by the speed with which he converted them into suicide bombers.

Moroccan police foiled a number of follow-up attacks in other cities by cells formed by Mejatti and a handful of other graduates of Afghan camps, investigators said.

''The thing about this kind of operation is that it could be repeated just about anywhere,'' said an Italian law enforcement official who investigated the European links to Casablanca.

Spanish anti-terrorism police who visited Casablanca after the attacks said they were convinced the tactic could be replicated in Europe. The prediction came true 10 months later in Madrid.

The involvement of Moroccans in the Madrid attack and evidence that it was linked to Casablanca sent shivers through the counter-terrorism community.

Spain's leading anti-terrorism judge, Baltasar Garzon, testified before a government commission investigating the bombings that Morocco was home to as many as 100 cells linked to Al Qaeda. They pose Europe's biggest terrorist threat, he said.

Other counter-terrorism officials said Garzon's figures might be too high, but they estimated that 400 to 500 Al Qaeda veterans returned to Morocco after the Taliban regime's collapse in Afghanistan.

The officials said Moroccan extremists posed a unique danger because they could slip easily in and out of Europe and blend in with the immigrant population. Moroccans are the largest immigrant group in several European countries.

Morocco prides itself on being a moderate country with virtually no history of terrorism, but the Casablanca attacks led to a massive crackdown that has drawn complaints from local and international human rights groups.

More than 100 mosques have been closed and thousands of people rounded up and jailed. Family members and lawyers complained that detainees were abused and tortured.

So far, about 1,000 people have been convicted of terrorism-related offenses; 14 have been sentenced to death, including the two surviving Casablanca bombers.

Washington has provided tens of millions of dollars in aid to Morocco and deeper cooperation in law enforcement.

In July, three FBI agents moved into the U.S. Embassy in Rabat to work with the Moroccans. A Navy officer was assigned to help monitor potential attacks on shipping in the Strait of Gibraltar.

U.S. diplomats are on high alert in Morocco. Two planned attacks in recent months, including one on an American target, were stopped only hours before their execution, authorities in Rabat said.

Police also discovered that a private security guard at the embassy was reporting diplomats' movements to an extremist group.

Morocco's leaders are defensive about their country's new profile in the campaign against Islamic extremism. Senior officials argue that outsiders are trying to destabilize a country that is striving to be a model of moderation for the Arab world.

Moroccans and officials of other Islamic countries agree that anger over U.S. policies in the Israeli-Palestinian conflict provides much of the motivation for the attacks.

''If the Palestinian issue were settled, if Iraq were stable, 70% of the threats would disappear,'' said Bouzoubaa, the justice minister.

But officials say they also recognize that not enough has been done to reach disaffected areas such as Sidi Moumen.

In July, King Mohammed VI ordered new social programs, including the construction of 100 small mosques and 20 large ones to counter the spread of hard-line Islam.

''We are very aware that we must fill the gap between what is good in Islam and the initiatives by outsiders, particularly in the poorer areas,'' said Ahmed Toufiq, the minister of Islamic affairs. ''They were left to themselves too long.''

REFUGE FOR EXTREMISTS

Even as new trouble spots emerge, eradicating known extremist sanctuaries has proved difficult, particularly in remote places out of the reach of government authority, such as parts of Yemen on the southern tip of the Arabian Peninsula.

After Al Qaeda bombed the U.S. destroyer *Cole* in Yemen in 2000, killing 17 American sailors, Washington helped train and equip Yemeni security forces and tried to persuade the government to do more to counter extremists.

But diplomats say the country remains primarily a lawless place where forbidding terrain and intricate tribal codes provide an ideal nest for militants.

Saudi and U.S. officials identified Yemen as the primary source of weapons and explosives for the Al Qaeda cells that have launched attacks in neighboring Saudi Arabia.

''Yemen still has to be viewed as largely ungovernable,'' a senior U.S. counter-terrorism official said. ''We sunk some money and time and effort into it, but we don't have much to show for it.''

Yemeni officials acknowledged in interviews that surface-to-air missiles, grenade launchers and other weapons remain widely available despite a crackdown on open-air arms bazaars.

The mix of radicals and weapons is particularly potent along the Saudi border, which encompasses rugged mountains and remote desert where tribal leaders hold sway.

''If somebody comes, he's going to pay for tribal protection,'' said Faisal Aburas, a sheik from the impoverished province of Al Jawf on the Saudi border.

''Then it would look bad for a sheik to hand him in, even if he's a criminal, because it shows weakness.''

Abubakr al Qerbi, Yemen's foreign minister, denied that the country still harbored Al Qaeda veterans.

''This is old information,'' he said, saying they were expelled in 1995 and again after the *Cole* bombing.

But Hamood Abdulhamid Hitar, a Yemeni government official in charge of negotiating with extremists, said he was holding theological debates with hundreds of militants, including 107 suspected Al Qaeda loyalists.

Yemen also links the Arabian Peninsula and the Horn of Africa. Somalia, where there is virtually no workable, central government, is just an hour by boat across waterways that are essentially wide open.

Farther down the coast in Kenya, concerns focus on a group run by Fazul Abdullah Mohammed, an Al Qaeda operative with a $25-million bounty on his head. Mohammed, a native of Comoros off the southeastern coast of Africa, was indicted in the United States on charges of orchestrating the 1998 bombings of the U.S. embassies in Kenya and Tanzania. He also is suspected of organizing the 2002 attacks on Israeli targets in Mombasa, Kenya.

Today, U.S. and other Western security officials say they believe he is planning another round of attacks, possibly on the new U.S. Embassy in Nairobi, the Kenyan capital.

''Al Qaeda is preparing for another sensational attack against Western targets in Kenya,'' a Western security official said. ''Two attacks planned for Kenya were exposed during the past year.''

U.S. officials suspect that the hunt for Mohammed has driven him into a remote part of northern Kenya, but they say he remains in touch with Al Qaeda leaders through courier and computer.

''I consider him to be a high-value target and a real player in the global Al Qaeda operation,'' said a senior U.S. official in Washington.

U.S. STILL A TARGET

U.S. and foreign intelligence and counter-terrorism officials warned that the United States remained the prime target of radical Islam.

''They have overcome the shock of the Afghanistan war and very likely they are preparing another large scale attack, possibly on a U.S. target,'' the senior European counter-terrorism official said. ''There are good reasons to be on alert.''

A CHANGING ROSTER

Despite the arrests of several high-profile leaders, anti-terrorism experts believe that Al Qaeda has managed to reemerge as a lethal ideological movement. Dispersed operatives—loosely organized or acting alone—recruit and quickly train local terrorist groups for small but deadly attacks.

A TERRORIST EVOLUTION

In operations such as the 1998 U.S. Embassy bombings in Africa and the Sept. 11 attacks, Al Qaeda leaders exercised considerable control over operations. Today, Al Qaeda appears to have become more ideology than network, spreading globally among cells inspired by Sept. 11.

MARKING TERROR'S CHANGES

''In Iraq, a problem has been created that didn't exist there before. The events in Iraq have had a profound impact on the entirety of the jihad movement.'' Judge Jean-Louis Brugulere, French anti-terrorism investigator.

''Any assessment that the global terror movement has been rolled back or that even one component, Al Qaeda, is on the run is optimistic and most certainly incorrect. Bin Laden's doctrines are now playing themselves out all over the world. Destroying Al Qaeda will not resolve the problem.'' M.J. Gohel, head of the Asia-Pacific Foundation, a London think tank.

''Once these guys have gone to Iraq to train, they know how to use weapons and explosives. That's the first level: Iraq as a new Afghanistan, a Chechnya.'' Pierre de Bousquet de Florian, director of France's intelligence agency.

''Al Qaeda is increasingly being invoked as an ideological motivation of Islamic radicals.'' Gijs de Vries, counter-terrorism coordinator for the European Union.

''By now we have no evidence, not even credible intelligence, that the Madrid group was steered, financed, organized from the outside. So that might be the biggest success of Bin Laden.'' A senior European counter-terrorism official.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that the remainder of morning business time on both sides be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is closed.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. 2845, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, today the Senate begins an important debate on the National Intelligence Reform Act. This legislation, which I have introduced with my good friend and colleague, Senator JOE LIEBERMAN, represents the most sweeping reform of our intelligence structures in more than 50 years. It reorganizes an intelligence community designed for the Cold War into one designed for the war against global terrorism and future national security threats. It recognizes that the fundamental obligation of government is to protect its citizens and that those protections must evolve along with the threats. It reorders the priorities of an intelligence structure that was devised for a different time and a different enemy.

On July 22, the 9/11 Commission released its final report on terrorist attacks against the United States. On that same day, our leaders, Senator FRIST and Senator DASCHLE, assigned the Governmental Affairs Committee the task of developing legislation addressing the Commission's recommendations to restructure the intelligence agencies within the executive branch. Our committee performed that task with dedication and diligence, and with the active participation of its talented members. From late July until mid-September, we held eight indepth hearings to assess the recommendations of the 9/11 Commission. We heard testimony from more than two dozen witnesses, including Secretary of State Powell, Secretary of Homeland Security Ridge, FBI Director Mueller, CIA Director McLaughlin, the 9/11 Commission Cochairmen, Kean and Hamilton, Commissioners Fielding and Gorelick, intelligence experts, field operatives, professors, and representatives of the 9/11 families. As a result of this unprecedented effort and wide-ranging input, the committee has produced the legislation now before the Senate. It is legislation that is comprehensive, bipartisan—indeed, unanimous—and historic.

This legislation is not, however, merely the product of 2 months' work by our committee. It is based upon the work of the 9/11 Commission and the inquiry that spanned 20 months, with 19 days of hearings and 160 witnesses, the review of 2.5 million documents,

and interviews of more than 1,200 individuals in 10 countries. The new intelligence structure we propose in our legislation is built upon a rock-solid foundation of inquiry and information.

In crafting a structure designed for today and for the future, the committee built on the strengths of our current system, recognized the progress that has been made since 9/11, and charted a new course to strengthen our intelligence community. We understood that the 15 agencies that comprise the intelligence community provide a wide range of unique experience, expertise, and viewpoints that must be preserved. We realize that the barriers to information sharing, cooperation, and coordination—what the 9/11 Commission referred to as ''stovepipes''—must be demolished.

We set as our goal an intelligence structure with the agility that the times and the threats demand, not simply another layer of bureaucracy. We were determined that this new structure not infringe upon the freedoms that Americans cherish.

This legislation uses the Commission's recommendations as our guide and these principles as our compass. It begins with the creation of the position of national intelligence director. The NID will be the head of our intelligence community and the principal adviser to the President of the United States. As the head of the new National Intelligence Authority, this Presidentially appointed, Senate-confirmed official will truly be in charge of our intelligence community. No longer will there be confusion and doubt about who is in charge and accountable. The answer will clearly be the national intelligence director.

The director will have broad authority to unify and strengthen our intelligence community's efforts and to eliminate barriers that impede the coordination of intelligence activities. He or she will set standards for information sharing and classification across the intelligence community and develop an integrated, coordinated communications network. His responsibility will be to turn the stovepipes that separate our intelligence community into conduits that promote cooperation. Along with this responsibility will come strong authority to direct budgetary and personnel resources where they are needed most.

To illustrate why these authorities are crucial, consider this passage from the 9/11 Commission Report.

In late 1998, it had become increasingly apparent that Osama bin Laden and al-Qaida posed a direct, immediate, and deadly threat to the United States. On December 4 of that year, Director of Central Intelligence George Tenet issued this memorandum. I quote from it:

> We are at war. I want no resources or people spared in this effort, either inside CIA or the Community.

You may ask, What is the result of this clear, concise and direct order from the head of our intelligence community.

According to the Commission:

> The memorandum had little overall effect on mobilizing the CIA or the intelligence community.

Why did it have so little impact? The expert witnesses before our committee and before the Commission provided the answer. Under the current structure, the DCI is responsible for managing the intelligence community but does not have the real authority to do so. No organization can succeed with such a disconnect between responsibility and authority.

At our committee hearing on September 13, I asked Secretaries Powell and Ridge what I consider to be the bottom-line question in this debate. I asked them both: Do you believe that a strong national intelligence director with enhanced power to set collection priorities, to task the collection of intelligence, will improve the quality of intelligence that you both need in your capacity as policymakers?

Each answered with an enthusiastic and unambiguous ''yes.'' As Secretary Powell put it, our intelligence team needs, and I quote the Secretary, ''a stronger, empowered quarterback.'' The Collins-Lieberman bill would provide that quarterback.

Perhaps the most important power that we provide to the national intelligence director is the power of the purse. In order to foster cooperation throughout the intelligence community, the NID will have control over the budget for national intelligence. Currently, that funding is largely funneled through the Department of Defense, and the director of the CIA has only very limited authority over the overall resources of the intelligence community.

Under the Collins-Lieberman bill, the NID, in consultation with the agency and department heads, will develop and recommend an intelligence budget to the President. After congressional action, it will be the NID who receives the appropriations for what will be known as the national intelligence program. The NID will also have significant authority to reprogram and transfer funds so that he can marshal the resources needed to counter a threat.

Never again should we have the kind of situation we saw with the directives issued by George Tenet in December of 1998, calling on the marshaling of resources and yet nothing happens.

After careful consideration, the committee decided to declassify only the aggregate figure for the national intelligence program. The Collins-Lieberman bill does not require the declassification of the budget totals for the various agencies that make up the NIP. Our witnesses generally urged great caution in going that far; instead, we require the directors to report to Congress on whether further declassification of budget totals is appropriate.

The NID will allocate the budget to the various intelligence agencies in accordance with the appropriations determined by the Congress. That includes agencies such as the National Security Agency, the National Geospatial Intelligence Agency, the National Reconnaissance Office, and parts of the Defense Intelligence Agency which serve national intelligence consumers but are located within the Department of Defense. In recognition of the dual roles played by these important agencies, which provide critical intelligence not only to the Department of Defense but also to the CIA and other national customers, our bill keeps these agencies within the department but strengthens the NID's authority over them.

It is important to emphasize that nothing in the national intelligence agency's authority will in any way hinder military operations or readiness. Tactical and joint military intelligence programs will remain under the control of the Pentagon and outside the national intelligence program as they are today. The Collins-Lieberman bill will not affect the tactical intelligence assets of the Army, Air Force, Navy, or Marines. This bill will not impede the flow of real-time actionable intelligence that our war fighters require. In fact, by strengthening and improving the collection and analysis of intelligence, our legislation should improve the quality of intelligence provided to Pentagon officials and the combatant commanders.

The members of the intelligence community collect a vast amount of information, but the Commission found that we have a weak system for processing and transmitting this information where it is needed. As the 9/11 report reveals, this weakness has been evident during many terrorist attacks over many years. It took an attack that claimed the lives of 3,000 people for this weakness to be fully exposed, and now it cannot be ignored.

Our legislation contains strong provisions that make information sharing the rule, not the exception, and requires integrated communications networks to be developed, a serious deficiency in our current system which Senator DURBIN highlighted in our hearings. We simply can no longer tolerate a system where the pieces of the puzzle are not assembled, where the CIA and the FBI each have vital, urgent, and compelling information, but no one puts the picture together.

The second major Commission recommendation included in our bill is the establishment of a national counterterrorism center. It would expand the communitywide intelligence analysis capabilities of the Terrorist Threat Integration Center established by the President last year.

A major benefit of this new center is that much of its staff will be drawn from the various intelligence agencies now scattered across the Federal Government. These intelligence experts will work side by side sharing and analyzing information, gaining an understanding of each other's mission, and

creating a culture of cooperation. A significant responsibility of the NCTC will be joint planning. The center will have the authority to develop plans that include a mission, objectives to be achieved, courses of action, and recommendations from operational plans. Moreover, the center will assign responsibilities for counterterrorism operations to the agencies as set forth in these plans.

As an example of how this might work, the NCTC would have the authority to create an interagency plan to dismantle a particular al-Qaida cell. The center would assign specific tasks to the appropriate agencies. But I want to be clear that the NCTC would not have the authority to tell any agency how it must execute that task, nor will it be in the military chain of command. Should an agency object to the NCTC assignment, the national intelligence director could either accede to the objection or appeal to the President to resolve the conflict.

These provisions are important. They will ensure an integrated approach to operational planning. We are not telling the various agencies precisely how to carry out the plan, how to execute it, but we will make sure that someone is looking at plans that span agencies, and in doing the planning when it affects more than one agency, when it is joint.

The legislation also includes provisions recommended by the Commission and authored by Senator VOINOVICH that streamline and standardize the system for security clearances, a system that we have heard, over and over again, is inconsistent, slow, and backlogged. An important provision requires the President to designate a single agency to handle security clearances for Government employees and contractors.

The final chapter of the 9/11 report, the chapter that outlines the recommendations we seek to implement, begins with this statement:

Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individual officials straining, often without success, against the boundaries of the possible. Good people can overcome bad structures. They should not have to.

This summarizes one of the major reasons we need reform. We have a system now that does not allow us to respond with agility to the threats we face today.

As this next chart shows, in our legislation we are not adding a layer of bureaucracy, nor are we breaking up individual agencies, nor are we creating a new department of intelligence. We are, instead, creating a new structure for cooperation, accountability, and results. Our legislation gives the good people in our intelligence community the structure they deserve. It also takes steps recommended by Senator JAY ROCKEFELLER, the vice chairman of the Intelligence Committee, to ensure that we will always have good people. It creates a scholarship program to encourage bright young Americans to join the intelligence community and it will enable veteran intelligence officers to enhance their skills. Intelligence reform requires this investment in human capital. We also create a reserve corps of retired intelligence officers who can be called upon when their special skills and judgment are needed.

Our bill also creates a civil liberties board as recommended by the Commission and strengthened by amendments offered by Senator DURBIN. Nominated by the President and confirmed by the Senate, the members of this board will advise agencies of the civil liberties ramifications of policies before they are adopted and then will conduct oversight.

In addition, our legislation will create both a civil liberties and privacy officer as part of the new national intelligence authority.

The fundamental obligation of any government is to protect its citizens. The American Government has an additional obligation to protect the freedom of its citizens. Our legislation does not ask the American people to choose between security and liberty. We firmly believe that no such choice is necessary. Our structure reflects that belief.

To help ensure a smooth transition from the current structure to the new, the bill provides a 6-month phase-in period that gives the President considerable discretion in implementing these reforms. We will not let our guard down during any point in this process.

We also recognize that reforms of this magnitude require continued and careful congressional oversight and review. The bill includes a provision recommended by former Senator Warren Rudman that requires a report to Congress on implementation of these reforms after 1 year. As a result of an amendment offered by Senator PRYOR, it also includes a useful requirement for a government accountability study and report to Congress.

As I have indicated, this legislation is the product of a concerted effort by the Governmental Affairs Committee. It reflects the recommendations of other committees and it builds upon the work of the 9/11 Commission. But it is important to know that the 9/11 Commission did not start from scratch, either. Its work takes into account nearly a half century of studies on intelligence reform dating back to the Eisenhower administration.

The titles of the studies and commissions reads like a ''Who's Who'' of 20th century military, intelligence, and diplomatic expertise: Hoover, Doolittle, Schlesinger, Rockefeller, Scowcroft, to name just a few. These studies were conducted under a variety of conditions and threats but a central theme emerges: America's intelligence system is hindered by a fragmented structure and compartmentalized thinking.

Our past failure to act on these many studies, which spans decades, which is repeated over and over again, is why we are here today. For example, the Boren-McCurdy legislation of 1992 realized the emerging threat of the post-Cold War era, terrorism, and weapons proliferation. Using the successful restructurings of the military since World War II as models, the National Security Act of 1947 and the Goldwater-Nichols Act of 1986, this legislation called for the creation—yes, you guessed it, Mr. President—the creation of a national director of intelligence with strong authority similar to what we propose today.

The Boren-McCurdy Act was not adopted. At the same time that those reforms were being set aside for another day, one component of our intelligence community had identified Osama bin Laden as the mastermind behind a foiled plot to bomb American troops. Another noted bin Laden's close ties to a known terrorist who was later revealed as the architect of the 1993 World Trade Center bombing. Yet another considered bin Laden to be nothing more than an extremist financier. Information that could have led to effective action against bin Laden a decade ago was there, but it was not shared or acted on. In 1996, the Aspin-Brown Commission reached the same post-Cold War conclusion and made very similar reform recommendations. The result: yet another failure by Congress to take action.

Meanwhile, our intelligence community was starting to agree that bin Laden had started something called al-Qaida and that it was some kind of terrorist army. As the 9/11 Commission notes, however, every relevant member of the intelligence community had a different plan for dealing with bin Laden and al-Qaida, from cruise missiles to diplomacy with the Taliban. While these conflicting plans were butting heads, two American Embassies in Africa were bombed, the attack on the USS *Cole* was approved, and what became known as the Planes Operation was taking shape.

The need for reform was made clear by the 9/11 Commission's exhaustive study on the intelligence failures that preceded the murder of 3,000 innocent people on September 11, 2001. In late July of this year, as the Governmental Affairs Committee's work began, Washington, New York City, and northern New Jersey were placed under elevated terrorist alert, an alert that is still very much evident at the intersections of this city today. Our committee work neared its conclusion as terrorists murdered once again, this time at a schoolhouse in Russia.

These terrible events, combined with the slaughter we have seen in Bali, Istanbul, Madrid, Jerusalem, Jakarta, and so many other places, leaves no doubt that the enemy we face has both a global reach and an unlimited capacity for cruelty. Our response must be far reaching, and it must unleash America's capacity to meet any challenge. This legislation is an essential part of that response.

The calls for reform go back 50 years. For nearly 2 years, the 9/11 Commission conducted an investigation of unprecedented depth. Our committee produced comprehensive legislation with unanimous support.

Hardly a day passes in which we do not see new evidence of terrorism's depravity. Yet there are still some who say: We should wait. We need more information. Under the current threat of terrorist attack, the time is not right. The charged atmosphere of the election season is not the right environment for such important decisions.

I ask, What more information do we need? Look at the list of witnesses who appeared before the 9/11 Commission and our committee. What point of view has not been heard? What area of expertise was not explored? What more compelling evidence do we need before we act?

I ask, If the time is not right now, when will the right time come? When will there be no threats? I ask, What could be more cynical than our failure to act on something of such critical importance to the citizens of our country?

At our very first Commission hearing on July 30, Commission Chairman Thomas Kean spoke on the need to move forward with these reforms. This is what he said—and I hope we will heed his words—

> These people are planning to attack us again and trying to attack us sooner, rather than later. Every delay we have in changing structures or changing people . . . to make that less likely is a delay the American people can't tolerate.

Yes, we can wait. We can wait until the day when we know everything we possibly can know, when there are no more threats, when the American people do not expect their leaders to lead. We can wait until the day another attack leaves us all wondering once again why we did not see it coming.

That first day will never come. If we do not act, the second surely will.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I have a unanimous consent request which I am really happy to make. I am sure Senator COLLINS, if she does not know yet, will be happy to hear this. I ask unanimous consent to add Senators FEINSTEIN and MIKULSKI as cosponsors of our legislation.

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

Mr. LIEBERMAN. Mr. President, I am truly proud to join with Chairman COLLINS in presenting to the Senate this historic bipartisan legislation, the National Intelligence Reform Act of 2004.

Senator COLLINS deserves enormous credit for shepherding this bill through the Governmental Affairs Committee and for involving so many interested parties to produce transformational reform, which, when implemented, will make all Americans safer than we are today. It has been truly a personal pleasure to work with her and other members of our committee to produce the legislation we have brought before the Senate this afternoon.

On the day after the September 11 Commission report was issued and the bipartisan leadership of this Senate, Senator FRIST and Senator DASCHLE, gave the Governmental Affairs Committee jurisdiction to take up and discuss and report back to the full Senate on the executive branch recommendations for intelligence reform, Senator COLLINS and I spoke and we agreed from the beginning that this was the moment to forget party labels and focus on the national security interests.

After all, not only were we attacked 3 years ago, we are under imminent threat of another terrorist attack. Al-Qaida and the other terrorist groups have made absolutely clear they intend to strike us again. The news reports today feature warnings from our Government to various levels of Government throughout the country to be prepared and on guard for the potential of terrorist attempts to disrupt our election process, right up to and through election day.

So Senator COLLINS and I understood from the beginning that we had to work together to do what was best for the country as we saw it. There would be differences of opinion, but we would do everything we could to make sure they were not partisan. That is exactly the tenor of the markup our committee conducted for 2 days last week. It was one of the best 2 days of my 16 years as a Senator. When it was over, we had more than 40 amendments filed with the committee. Not a single amendment was decided on a partisan vote. One particular Democratic colleague said to me: For 2 days it was actually like we were legislating, the reason we came here in the first place.

That is absolutely right. We produced a solid, bold bill to transform our intelligence community to meet the challenges of an age of terrorism. We present it to the Senate with a confidence that the momentum that has been created by the 9/11 Commission, by the families of victims of September 11 appealing to us for action, by our own committee's nonpartisan work, will carry through the Senate, the House, the conference committee, and we will get this critical job done and in law as soon as possible, certainly this year, hopefully before the election.

I call this transformational reform because transformational reform is exactly what is necessary to face the enemy of today.

Terrorists working across national boundaries are brutal. They are inhumane. They strike, most of all, undefended targets, and they adapt to meet new circumstances. They are not going to be defeated solely, or perhaps even largely, in the end by military power or with the help of an intelligence system and community that were organized to fight the Cold War and helped win the Cold War. We need to restructure our intelligence capabilities to meet the challenges of 21st century warfare, and that means the war on terrorism.

That is what the legislation Senator COLLINS and I are presenting today will do. We owe a great debt to the seminal work of the 9/11 Commission and to their staff whose recommendations we relied on in drafting this bill. The Commission spent a year and a half studying the weaknesses in our national defenses that left us vulnerable on September 11, 2001. They interviewed more than 1,200 witnesses, reviewed literally millions of documents, held 12 public hearings, and produced a compelling narrative, chilling in its details and implications.

Under the strong leadership of Governor Kean and Congressman Hamilton, this bipartisan Commission made 41 recommendations to strengthen our country against terrorists. The two that they have called the most urgent—that is, the most time sensitive to act on—a strong national intelligence director, and a national counterterrorism center, form the centerpiece of the legislation we put before the Senate today.

We owe a deep debt of gratitude as well to the courageous families of those who died on September 11. We are here today because they turned their personal grief into an inestimable force for change, playing a vital role in getting the 9/11 Commission established in the first place, working relentlessly to help the Commission through the rough patches it faced, and embracing and championing its final recommendations. They are a mighty moral force. I continue to be awed and inspired by them in this debate. I will not forget their loss and their commitment to make sure that we reform our Government so that no other Americans face similar losses from 9/11 type attacks.

When the Commission released its report on July 22, very few would have predicted that legislation would be on the Senate floor today and the Senate would be poised to debate the most far-reaching reforms of our Nation's intelligence community in half a century. In fact, many predicted it would never happen. Most people thought it certainly wouldn't happen this year. Maybe next year. But the 9/11 Commission confirmed what we knew—the work of protecting our Nation from terrorist attacks cannot wait and must not be delayed. Business as usual on these matters is not an acceptable option.

During August and early September, in fact beginning at the end of July, the Senate Governmental Affairs Committee held, as Senator COLLINS said, eight hearings on the Commission's recommendations and drafted a bill on their work. Last week we held a 2-day markup, considered more than 40 amendments, and voted the measure

out of committee unanimously, with amendments adopted, good give and take, thoughtful discussion, negotiation on wording that in the end strengthened the authority and the position of national intelligence director.

Following the example of the 9/11 Commission, our committee members did work, not as partisans, though we are in the midst of an election campaign; we worked as Americans, concerned about the security of our fellow Americans and the responsibility we have to protect them. That is a much more compelling interest than any partisan political interest that any one of us may have.

Although we have acted with speed, we have also acted with deliberation. Our legislation is based not only on the comprehensive work of the 9/11 Commission I have described but on the earlier work of the joint House and Senate Intelligence Committees in their inquiry into matters of intelligence, on the expertise of scores of experts who have been thinking about this subject for decades, and on critical reports, as Senator COLLINS indicated, that date back not 10 or 20 years but 50 years, making similar recommendations to the ones we have made. It is a tragedy that it took 9/11 to shake us out of our bureaucratic lethargy to be on the edge of doing what should have been done 50 years ago.

The fact is, we are not moving too fast. Three years have passed since the devastation of the attacks of September 11. The 9/11 Commission has stated—and I think this says it all—''We are safer. But we are not safe.'' That is why we are moving so swiftly in this proposal to modernize the management of our intelligence agencies, to make sure we get the maximum in national security for the billions of dollars we are investing. Our enemies continue to plot against us, and intelligence is the first line of defense against these plots.

As the Commission report noted:

> Not only does good intelligence win wars, but the best intelligence enables us to prevent them from happening altogether.

These are not ordinary times. Our citizens are still at risk. Our military is on a wartime footing and in action, deployed abroad. So, too, we must be on wartime footing and deployed here at home.

September 11, 2001, reminds us that we can no longer afford to put off reform. In its extensive report, the 9/11 Commission literally indicted the status quo in America's intelligence community and insisted on change. The report said:

> As presently configured, the national security institutions of the United States Government are still the institutions constructed to win the Cold War.

The Cold War is over. We are now engaged in a wholly different conflict: a long-term war on terror. That is why the old systems of intelligence, the old structures must give way to new and more effective ones that meet our current threat.

A big part of the problem with the old structure, the Commission found, is that it has no leader. Lee Hamilton, vice chair of the Commission, said:

> A critical theme that emerged throughout our inquiry was the difficulty of answering the question: Who is in charge? Who ensures that agencies pool resources, avoid duplication, and plan jointly? Who oversees the massive integration and unity of effort to keep America safe? Too often, the answer is no one.

Our intelligence community is like an army without a commanding officer, a football team without a quarterback. It doesn't work; it is not acceptable, not with the challenges we face.

No one below the level of the President is charged today with the responsibility of overseeing a diffusion of organizations spread across 15 agencies in our intelligence community. No one today has the authority to knit together the efforts of these disparate elements; therefore, no one is accountable for mistakes.

Senator COLLINS showed a chart which portrays the changes our reform proposes. For comparison, here is our best effort to show the current system. You see the President, but then you see stovepipes—CIA, Defense, Homeland Security, State, et cetera—without a leader. We can't expect the President, with all the demands on the highest office in our Nation, to be on a daily basis coordinating this community which spends billions and billions of dollars every year—so stovepipes but not coordination.

That leads to some of the shortcomings that Senator COLLINS so ably and eloquently dramatized.

In fact, the Commission's report describes over and over again the consequences of the absence of a leader of our intelligence community today.

Senator COLLINS referred to George Tenet's call to war against terrorism, a directive sent to all of the agencies of the intelligence community on December 4, 1998. What was done in response to that call to war? Nothing. Why? Because most of the members of the intelligence community didn't think they had to do anything. The Commission concluded that Tenet's declaration ''had little overall effect on mobilizing the CIA or the intelligence community'' because he didn't have the power. He was not in control. The fallout, as we all know, was a frustrating series of missed opportunities and an agonizing failure to piece together good information that different agencies had gathered—the failure to connect the dots.

We have a lot of able people and extraordinary capacities in our intelligence community. Nobody in the world can do all that we can do in intelligence. But if you don't bring it together in one place, if you don't have coordination and leadership, literally one arm doesn't know what the other is doing, and the national security suffers and the terrorists gain.

At its core, the configuration of the intelligence community today prevents us from drawing upon the experienced people, the ample resources, and the extraordinary information that are available within the community. Some of the problem is this lack of leadership I have talked about. Some of it is the top-to-bottom bureaucratic organization that the stovepipes on the chart show. Too often, each of the 15 intelligence agencies reside in their own universe, walled off from alternative points of view, failing to share information, and adjusting too slowly to new and emerging threats. As the commissioner put it on page 353 of the 9/11 report:

> Information was not shared, sometimes inadvertently or because of legal misunderstandings. Analysis was not pooled. Effective operations were not launched. Often, the handoffs of information were lost across the divide separating the foreign and domestic agencies of the government.

I depart from the quote. Even though the terrorists don't make that foreign and domestic divide, they are coordinating their activities; they are at war against us without regard to bureaucratic or foreign and domestic divides.

The Commission said that:

> The Agencies [of the intelligence community] are like a set of specialists in a hospital, each ordering tests, looking for symptoms, and prescribing medications. What is missing is the attending physician who makes sure they work as a team.

Today, the head of the intelligence community—whom we call the DCI, Director of Central Intelligence—only has effective control over the funds of one agency within the entire community, and that is the CIA. That means that roughly 80 percent of the national intelligence budget is not even controlled by the Director of Central Intelligence. We may have won the Cold War with that structure, but as has been made painfully clear, it is not enough for the war on terror, if we are to learn many lessons the hardest way possible. And agencies are doing a better job now sharing information and better coordinating their activity, but the system is still not organized—certainly not as well as it should be to get maximum security from the billions of dollars American taxpayers invest every year in the intelligence community.

Listen to this story. Philip Zelikow, the executive director of the 9/11 Commission, spelled out the problem before our committee. He told of traveling to Pakistan and Afghanistan to visit representatives of various U.S. agencies working in the border areas there to determine, he said, how they were working together, how they were integrating their hunt for Osama bin Laden. Surely, it is one of our most critical national goals since September 11 to find bin Laden. So Zelikow asked his host:

> Well, where is the joint strategic plan for the hunt for bin Laden? Where is the person who is in charge every day of the integrated strategic plan, [who] updates that plan every day of how we're hunting bin Laden?

What Zelikow found was that 3 years after September 11, ''there is no such

joint plan. There isn't a joint integrated planner for that hunt.''

I imagine that will shock and unsettle the American people as much as it did the members of the Commission and the members of our committee. That is why we want to put this national intelligence director and national counterterrorism center in charge.

The legislation we are presenting today deals with these deficiencies by adopting two of the three critical Commission recommendations. Under our proposal, the national intelligence director would be the President's primary intelligence adviser but also the leader of the national intelligence community, with strong budget, personnel, and tasking authorities to break down the stovepipes and knit the agencies together into a powerful, agile, effective network. Tom Kean and Lee Hamilton told our committee they recommended a national intelligence director:

> Not because we want to create some new ''czar'' or a new layer of bureaucracy to sit atop the existing bureaucracy. We come to this recommendation because we see it as the only way to effect what we believe is necessary: a complete transformation of the way the intelligence community does its work.

The national intelligence director will have strong authority to reprogram and transfer money and people, so that he or she may react quickly to changing threats, and direct intelligence resources when and where they are most needed.

We heard from many witnesses before our committee about how critical it was to give the new national intelligence director budget authority if we wanted that director to forge the unity of effort we are looking for. The Director of Central Intelligence currently has authority to reprogram funds but not real budget authority, and even the reprogramming authority is not exercised frequently because the process takes from 3 to 5 months to complete. Imagine that. The threat of terrorism is daily, and it requires agility, quick action, and reprogramming funds to fight it, but reprogramming can take 3 to 5 months.

We heard from the former Director of the CIA, Jim Woolsey. He described what he called the Washington version of the Golden Rule: Whoever has the gold makes the rules. That is why we want to give the new national intelligence director real budget authority. Let me quote Woolsey:

> If budget execution authority is given to the national intelligence director, he will or she will have a much better ability to say to the Secretary of State or Secretary of Defense, ''Look, I sympathize, I understand. I know this fluent Arabic language linguist is a very rare asset. But you didn't hear me. I really need her or him.''

Unlike the current DCI, the new director would not run the CIA, while simultaneously trying to manage the entire intelligence community. We are going to separate them. The 9/11 Commission told us you cannot be both the President's principal intelligence adviser, the head of the intelligence community, and also run the CIA every day. So we have separated those two functions.

Our proposal thus puts the director in charge of the national intelligence program, which will encompass all programs and intelligence activities concerned with ''national'' intelligence—the interests of the entire nation rather than just one department.

Remember that our intelligence community ultimately serves the President as Commander in Chief, but the President is the head of our Government overall, representing the public interest. I know there are concerns about how these changes might affect the American military, so let me be very clear about this. Intelligence for use by the military services must continue to be a top priority of the national intelligence director and of our intelligence community. Support of our warfighters will always be a primary concern of our intelligence community, but it is not the only concern. Under this organization, the warfighter will benefit because as the national intelligence director takes charge, our overall intelligence will become more effective, including for the warfighter.

As Senator COLLINS made clear, the Department of Defense will retain control totally over the tactical military intelligence budgets.

Finally, the national intelligence director will have the assistance of a newly created Cabinet-level joint intelligence community council—Secretary Powell, when he appeared before us, compared this to the Joint Chiefs of Staff in the military—headed by the intelligence director as well as the Secretaries of State, Treasury, Defense, Energy, and Homeland Security, as well as the Attorney General. This council will advise the Director of Intelligence and ensure that the timely execution of the Director's priorities within each member's respective Department occurs. That reform, we believe, will bring direction and focus to the intelligence community's work.

The national counterterrorism center, the second urgent major recommendation made by the 9/11 Commission, is designed to overcome the failure to share information, to break through the stovepipes, to coordinate activities to make sure, to the best of our ability, that never again does 1 agency of our Government see 2 terrorist suspects coming into our country and not tell the border security agencies and those 2 end up as 2 of the 19 who attacked us on September 11.

Our legislation establishes the center with two key functions: First, to build on the Terrorist Threat Integration Center now housed at the CIA and ensure that intelligence from all sources in our Government is integrated and analyzed. In other words, this is the place where we can be sure the dots will be connected. Second, it will develop interagency counterterrorism plans and assign agencies responsibilities and monitor and report on implementation of the plans.

The obvious point here is if we are going to have everybody at the same table sharing the intelligence they collected, the analysis they make of it, it makes every bit of common sense to authorize them to plan together what to do about it.

This counterterrorism center—and I note the occupant of the chair is a member of the Armed Services Committee—would be comparable to the combatant commands, the joint commands that were created pursuant to the Goldwater-Nichols Act of the mid-eighties. These operations that would be planned could be on the larger strategic level, such as how do we win the war on terrorism, how do we win the hearts and minds of people in the Muslim world, and, of course, they also should be on the more tactical level: What can we do together to more quickly capture or kill bin Laden? What can we do together about this terrorist cell we see in some American city?

Here is what the Commission chairman and vice chair said about this:

> Today, we face a transnational threat. That threat respects no boundaries and makes no distinction between foreign and domestic. The enemy is resourceful, flexible and disciplined. We need a system of management that is as flexible and resourceful as is the enemy. We need a system that can bring all the resources of Government to bear on the problem—and that can change and respond as the threat changes. We need a model of Government that meets the needs of the 21st century. We believe that the National Counterterrorist Center will meet that test.

So, too, of course, Senator COLLINS and I and the members of our committee, whose bill we put before you today, would establish such a center.

This is a critical reform. It will triumph over the bureaucratic inaction and failure to share information described by the Commission throughout its report. Let me just give this example from the report.

In late 1999, the National Security Agency, which overseas the collection of signal intelligence, analyzed communications to and from and about some people they were watching who turned out to be future terrorist hijackers of September 11. NSA correctly concluded that someone named ''Nawaf'' and his accomplice named ''Khalid'' were part of ''an operational cadre,'' and that ''something nefarious might be afoot.'' But the NSA, and that particular analyst and others, did not think its job was to pursue further the identities of these men because it saw itself as a support agency that should energetically respond to requests for information, listen to conversations, et cetera, but not initiate investigations. It turns out there was additional valuable information right in the NSA computers regarding these two terrorists which, had it been checked, might well have thwarted the 9/11 plot.

The Commission tells us how the CIA tracked Nawaf and Khalid to Kuala Lumpur and then lost them when they traveled to Bangkok. The evidence is that one of the men's passports indicated that a possible destination and interdiction point was the United States. Yet no one alerted the Immigration and Naturalization Service or the FBI, and so these 2 arrived in Los Angeles unhindered on January 15, 2000, and became 2 of the 19 September 11 terrorist attackers.

The Commission report notes the response of different officials to this information. There was confusion about who was supposed to do what. The head of the CIA's Counterterrorism Center at the time did not recall why the case fell through the cracks or off the radar. The Director of the al-Qaida unit in CIA did not think it was his job to determine what actions should or should not be taken in a case such as this.

Under our proposal, the national counterterrorism center will put in place interagency orders to make sure rules and responsibilities for counterterrorism missions are clear. It will monitor the implementation of those plans to make sure information so critical does not fall through the cracks of bureaucratic stovepipes again and that no one drops the ball again and that the American people are never left unprotected again.

As the Commission recommended, the national intelligence director will also have authority to create new national intelligence centers beyond the Counterterrorism Center to integrate capabilities across the intelligence community to focus on other threats, such as weapons of mass destruction, or geographic areas, such as North Korea. You can imagine a national intelligence center on North Korea or Iran or, more specifically, on what we are so worried about today: the development of a potential nuclear weapons capability in Iran. This would bring everyone in our Government who knows anything about such a capability together to share information and analysis, and develop plans.

Senator COLLINS talked about the information-sharing parts of our report, and I will not go over that any further except to say that I am proud of what we have done here. We built on some excellent work done by the Markle Foundation which, quite rightly, suggested the old need-to-know standard in intelligence ought to be broken to allow more sharing at every level of our Government to maximize protection of the public.

I do want to say that Senator DURBIN has for years championed the idea that we need a concerted effort to make sure that information is shared throughout our Government in a systematic way, using the best of modern information technology to gather, pool, and understand information—a Manhattan Project, as Senator DURBIN likes to call it, for information sharing. His ideas are reflected in substantial parts of this report, and I thank him for it.

We have a very important section on civil liberties. Again, Senator COLLINS referred to this, and I will just say briefly that throughout our history, America has always balanced the joint concerns and commitments to security, without which there is no liberty, and liberty. We seek security for a purpose, which is to protect our liberties so as not to compromise the liberties that define us as Americans.

As the 9/11 Commission said, we are at a stage in our history, after having been attacked as we never were before on September 11, where the Government will have to play a more active role in American life. We want to make sure as that happens that the liberties of the American people are not compromised.

There is a broad section on independence—which in some senses goes beyond what the 9/11 Commission was specifically responding to, and responds to other concerns that people in both parties and both Chambers have had—to make sure that the intelligence product the President gets and that we in Congress get is independent and objective.

Senator ROCKEFELLER brought to this matter his extraordinary expertise as ranking member of the Intelligence Committee. He deserves special thanks from our committee for the many contributions he made to the bill that we put before the Senate. I mention him because he had uniquely the idea of creating an ombudsman within the National Intelligence Authority who will serve as an independent counselor for complaints, but more than that, an independent reviewer of analytical products throughout the intelligence community to ensure that the intelligence advice the President and Members of Congress get is free of bias of any kind, political or otherwise.

In private industry, there is not a business I know that can afford it, that does not have some kind of quality control system. In some sense we do not have a quality control system for the $40 billion-plus we spend on intelligence, and this office of ombudsman will be the quality control office for American intelligence.

Senator ROCKEFELLER is also the author of the national intelligence reserve corps idea. It is a great idea, allowing in these demanding times for temporary reemployment of retired intelligence community employees with specialized skills to help us meet emergency mission requirements.

Senator LEVIN helped improve Congress's access to intelligence, and to require that the information is free from bias, with substantial input to this bill as a member of our committee.

Senator PRYOR, too, added significantly to the bill. Because of his efforts, we will have reports from the Government Accountability Office, the GAO, providing us with an assessment as to how this legislation is actually being implemented, enabling Congress to be more effective in our oversight. I hope it will give some sense of assurance to those who wonder how this will all work that we have built in lookbacks to make sure that if it is not working in all of its particulars as we want it to, we will know that and we will act on it.

The 9/11 Commission report tells us:

> Our biggest weapon of defense is our intelligence system. If that doesn't work, our chances of being attacked are so much greater. So our major recommendation is to fix that intelligence system and do it as fast as possible. Chairman Tom Kean said:
>
> Not only does good intelligence win wars, but the best intelligence enables us to prevent them from happening altogether.

Intelligence has always been critical to warfare. In many ways, it is even more critical to the war on terrorism because we face an enemy unlike any we faced before, whose basic mode of operating is to strike undefended targets, to strike not at the military but to strike at undefended, innocent civilians. Intelligence is critical so we can see and hear what our terrorist enemies are planning so we can stop them before they strike at us again.

Senator COLLINS and I have taken the words of the Commission to heart and are offering this historic and transformational reform in direct response to those words. We have hewn very close to the Commission's intelligence reform recommendations and are proud and grateful to have the explicit support of the chairman, vice chairman, and the members of this extraordinary bipartisan Commission.

Yes, we are moving quickly but we are moving quickly for a reason. As I have said, our terrorist enemies are not mired in bureaucratic tradition. They are flexible. They are agile, brutal, and inhumane. We must be, in all of our humanity, with all of our values, as powerful, agile, and quick to change as they are. If we hesitate, we will truly pay the consequences again.

The Deputy Director of the CIA's counterterrorism center, Philip Mudd, summed it up when he told our committee:

> We need clear, clean, short lines of command and control. Opportunities to roll up a terrorist or prevent an attack demand immediate action. This is a war of speed.

Those are important words to remember.

I expect some of the most significant amendments that will be presented on the floor will be those that I am afraid will blur the clear, clean, short lines of command and control.

Preserving the strength of the national intelligence director is one of the critical aims that Senator COLLINS and I have as we go forward with this debate.

FBI Director Robert Mueller said:

> Don't create a national intelligence director with no real authority, because you will have the worst of all worlds then.

Interestingly, that was echoed by the now former Acting Director of the CIA,

John McLaughlin, when he said, and I paraphrase with apologies, the only thing worse than doing nothing is to create a national intelligence director without real authority. Then it is just another layer of bureaucracy.

We have to establish that 21st century management system we have talked about.

So in a Congress that unfortunately over the years has grown increasingly partisan, in the middle of an election season which is inherently political and partisan, Senator COLLINS, the members of our committee, and I, on a bipartisan basis, putting aside our partisan labels to work exclusively for the national security interests, present this proposal to the Senate. Every member of the Governmental Affairs Committee worked hard, with some disagreements, and ultimately supported the proposal.

There is now a significant political consensus for change. Momentum is building and I am confident our colleagues in the Senate will rise to the challenge and take strong action in the national interest. We are, after all, a nation at war, a war like none we have ever fought. We must maximize and transform our ability to defend our Nation to meet this new threat. We cannot do that without the best intelligence possible.

Senator COLLINS and I are confident that the proposal we put before our colleagues today will result in just that, the best intelligence possible. It deserves the support of our colleagues in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I rise in support of the National Intelligence Reform Act of 2004, the bill that Senator COLLINS and Senator LIEBERMAN have discussed. I speak not only as the Senator from West Virginia but also as the vice chairman of the Intelligence Committee.

I begin by expressing my thanks for the bipartisan cooperation of Chairman COLLINS and Ranking Member LIEBERMAN, their staffs, and members of their committee for the way in which they worked and reached out across the intelligence community. It was an extraordinary thing, something one does not see around here very often.

I lend my voice as strongly as I can to theirs in saying that Congress—and by that I mean both the Senate and the House—should pass and enact this critical legislation before we recess.

I certainly am committed to making that happen, as I know Senator COLLINS and Senator LIEBERMAN are. With an equal level of commitment from the Senate leadership, the House leadership, and the President of the United States, we can meet this ambitious goal, a goal about which, a month ago, even 3 weeks ago, people would have said is absolutely impossible. This has to not be put off. Distinguished statesmen from eras gone by have said we can't do these things, we have to take our time.

I say, from time to time, when you give Congress the time to do something, we may not. If you give us a little bit of time to do something very important, we may very well. I believe this is one of those cases.

In just the past 2 years, the Senate Select Committee on Intelligence has put forth not one, but two, frankly, quite devastating investigative reports about what surely rank among the greatest intelligence failures in the history of our country, to wit, the terrorist attacks of September 11, 2001, and the intelligence estimates prior to the war in Iraq, particularly those that related to weapons of mass destruction.

In December of 2002, after 2 years of painstaking work by a congressional joint inquiry—it was the House and Senate Intelligence Committees acting together as one, for a very long period of about a year and a half, where we worked side by side and we also issued a report and series of recommendations reflecting the suggestions about the 9/11 attacks. It is extraordinary when one reads that and one reads the 9/11 Commission Report, how much is familiar, as between the one and the other; more eloquently expressed by far in the 9/11 Commission Report but nevertheless in both reports.

In early July of this year, less than 3 months ago, we released a report on the collection and analysis and dissemination of prewar intelligence leading up to the war in Iraq, as I have indicated. That 511-page investigation, reported out of our committee by a unanimous vote of 17 to nothing, thoroughly detailed how the analytical judgments about Iraq's weapons of mass destruction programs were flawed, exaggerated, and misleading. And there were no doubters. There were no doubters. There were different points of view, but there were no doubters on those central premises.

It showed in plain terms that the intelligence community had failed to provide intelligence assessments prior to the war that were timely, objective, and in this Senator's opinion, independent of political considerations, as is legally required under the National Security Act which defines so much of what we do.

Then, a few weeks later, the independent national 9/11 Commission, led by Governor Tom Kean and Congressman Lee Hamilton, himself a former chairman of the House Intelligence Committee, published its findings and recommendations, and in so doing took our work a much needed, a very critical step down the road.

The 9/11 Commission not only very powerfully described the individual organizational and systematic failures prior to the attacks, but they also set forth a very specific agenda for reform in what I thought were clearly readable, logical, and understandable ways. They addressed our intelligence shortcomings and proposed restructuring the intelligence community so that it would be more effectively managed, better prepared to deal both offensively and defensively with the terrorist threat that faces our Nation.

By the end of July, mere days before this Senate was scheduled to adjourn for a lengthy recess that is called August, the case for reforming the intelligence community had been described in more convincing detail than ever before, and the question suddenly became no longer should the intelligence community be reformed, but when. Most Members of Congress understood this. The American people certainly understood this. Even the leaders of the Central Intelligence Agency and other intelligence agencies seemed to have concluded on their own that the intelligence communities, after 57 years of largely static existence, denigrating nothing that they have done following its Cold War birth, rooted in that tradition and in that culture, is in need of an overhaul. One does not simply say let us have an overhaul. One produces legislation to create it, and that is exactly what the Governmental Affairs Committee has so brilliantly done, which is not to say that this is all new, or even a reflection of only recent events.

I am aware of no fewer than 46 significant studies, reviews, and commissions on the organization of the U.S. intelligence community, dating back to 1949. Nearly half of those were completed in the past 10 years, each proposing ways to improve and restructure our intelligence operation.

The issue of reforming the intelligence community has been swirling about Capitol Hill for decades now. The concept of creating a position such as a national intelligence director, in fact, dates back to the Nixon administration. These past commissions' recommendations were never enacted, for a whole host of reasons, some of which we will not discuss at the present time, not the least of which was that there was really no momentum. There was no sort of galvanizing event or series of events and the will, therefore, in the Congress, joining with the administration, never came to be.

Today we have that commitment, largely and sadly because we are gripped by present and growing signs of terrorism around the world and at home, true terrorism in which violence is not merely a means but also an end unto itself. I am talking now beyond even the tragedy of the 9/11 event itself.

Madam President, 95 percent of the population growth in this next generation throughout the world will take place in precisely the 5 percent of the land on the Earth which is poorest. If that is not a precalculated formula for the unleashing of people who want to find a cause or reason for justifying themselves as young men and women—I talk about 14- and 15-year-olds. One looks at the average age of people in

Iraq, which is 19. 40 percent of them were born either during or after the Persian Gulf war. They have known nothing but violence.

So it is a part of our future. Senator COLLINS and Senator LIEBERMAN understand that, and they have created legislation to help us deal with that from the intelligence perspective. As Senator LIEBERMAN said, intelligence has taken on a new role because terrorists, jihadists, those who misinterpret good doctrine in the Koran, religious doctrine—they are not afraid in the same way of military might as they used to be. Still very much so, still very much in play, the attempts to find Osama bin Laden have shown us, in a peculiarly unpleasant way, that it is not just airplanes and bombs and laser bombs and smart bombs and the rest of it that can find the people we must find. It is, indeed, intelligence or the lack of intelligence which has made that impossible.

So we have now the best chance in at least a generation, thanks to Senator COLLINS and Senator LIEBERMAN and their committee, for getting at the heart of the problem in the intelligence community. It is past time to get the work done. The Senate bill we are considering is serious, comprehensive, and careful. On the other hand, I must say I am somewhat dismayed at reports of the efforts in the House—I must be frank; I mean to offend nobody—where I understand the bill which is under consideration may be much weaker, perhaps by design, and contains unnecessary and highly controversial items meant to slow debate. I pray that I am wrong on that. But we must have that in mind.

If reports are also true that the minority has been shut out of the process, with exactly the opposite of what happened in the Collins-Lieberman approach to crafting this bill, then the House leadership has a great deal of work to get things back on track.

I think the President will face a great test of his leadership. Will he step forward to encourage full and far-reaching intelligence reform, as he has partly done so far already, taking steps which some were not sure that he would be willing to take? Or will he look the other way, and let things happen as they will? We need him and his influence in this Chamber and in the House Chamber, and I am confident that will happen.

If the Senate and the House and the President squander this opportunity to allow the momentum behind the reform to lapse in the next year, we will have failed—and we will not fail. Other things will grab our attention even as exacting and devastating as this problem is. So we must not fail. We must not fail the American people. They expect reform, and we are not going to fail them.

As to the substance, briefly: The Governmental Affairs Committee's work embraces the key principles of the 9/11 Commission except in a few instances where they saw things otherwise, such as the 9/11 Commission suggested locating the new national intelligence director inside the Executive Office of the President. The Commission felt that was a good idea. The committee felt that was not such a good idea, so it is not happening. They dealt in the same way with the suggestions made by paramilitary activities ongoing by the CIA, with respect to changing those. And once again the Collins-Lieberman committee made those changes.

As my colleagues know, the lead recommendations of the 9/11 Commission are the creation of a national intelligence director and a national counter-terrorism center. Senators LIEBERMAN and COLLINS have both explained those very thoroughly here today. The Commission correctly saw in the intelligence community's current organizational arrangement a fragmented array of budget, personnel, and tasking authorities that inhibit the sharing of information and prevent coordination of efforts under a single accountable individual. This lack of consolidated authority undercuts the ability and the willing ability of the intelligence community to function as a true community, and more specifically prevents America from bringing the maximum force of intelligence, military, and law enforcement weapons to bear against al-Qaida and other terrorists both here and abroad.

I have had a chance to carefully review the bill. I don't enjoy reading bills, but I have read this bill of the Governmental Affairs Committee. And it is, so far as this Senator can say, and many others, faithful to the 9/11 Commission's most important recommendations, and creates many of its own.

The bill creates a national intelligence director, of course, and a national counter-terrorism center with unified authorities that will correct the inefficiencies and lack of accountability that exists.

That was the beginning. Some will say—it is important to say these things—that the national intelligence director established in this legislation is too strong because the position will manage the budget and operations of three national intelligence agencies currently under the Pentagon's control. Here we get onto somewhat sacred ground. I speak of the National Security Agency, the National Reconnaissance Office, the National Geospatial Intelligence Agency.

Others will criticize the bill by saying that the national intelligence director is too weak because the position does not have so-called ''day-to-day operational control'' over these three agencies I have just mentioned which also serve important combat functions inside the Pentagon. These critics are advocating in effect the creation of a new department of national intelligence. Senator LIEBERMAN indicated that was not what they wanted to do, and thankfully that is not what they have done. In my view, the bill that was reported out unanimously by the Governmental Affairs Committee strikes precisely the right balance between these two positions.

The budgetary, personnel, and management tasking authorities consolidated under the national intelligence director are substantial improvements over those now at the disposal of the current Director of Central Intelligence.

I remember asking George Tenet when he was Director of the CIA, on several occasions—I think he was not happy with the question, but he was forthright with his answer—if you could control, don't you want to control what goes on at NSA, or NRO, or the Geospatial folks—it wasn't called that then—and he said, I can only and will only seek to have authority over what in fact I have budgetary authority. I cannot exercise control beyond that.

The committee has reached that point to say that we have to have one person who has the budgetary control to do these things. The budgetary control of personnel, management, and tasking authorities consolidated in the national intelligence director is an enormous improvement over those now at the disposal of the current Director of Central Intelligence.

Moreover, the bill recognizes that the national intelligence director will have to rely on the expertise of the newly created deputies and the agency heads beneath them to manage the intelligence collected from domestic, foreign, and military forces. It acknowledges implicitly and explicitly the connection of the time and attention between military and intelligence. Chairman COLLINS addressed this very directly. It accommodates the military's legitimate need to control its own operations without giving short shrift to all of the nonmilitary consumers of intelligence, one of whom, incidentally, happens to be President of the United States.

To put it another way, this bill achieves the fundamental restructuring of the intelligence community while preserving an underlying management arrangement that can implement the new director's directives in a coordinated way which is altogether missing today. Fifteen pairs of oars pulling at the same time under the direction of one captain—that is the concept at the heart of this legislation.

I would also like to highlight a couple of additional items the committee made which I feel very good about. Both have been mentioned by Chairman COLLINS and Ranking Member LIEBERMAN.

The communitywide ombudsman to handle concern from the analysts—we heard a great deal about this—over the shaping or politicalization or potential, referring to the future, of intelligence, such as were voiced by analysts in the preparation of intelligence reports on Iraq in the fall of 2002.

Creating this ombudsman, which the bill does, is an important way to ensure that policy considerations do not compromise the independence and objectivity of the intelligence community's judgment.

Second, Senator LIEBERMAN referred to this—I believe we need an intelligence reserve corps. The intelligence community can get stretched very thin. It was, for example, during Kosovo. We saw that during that time. Currently, in Afghanistan and Iraq, we see it now. We simply stop doing other important intelligence work, which in fact must continue in other parts of the world because resources are moved from some important place which is evolving into the current situation. One can't afford to do that in intelligence. We need to support the war site foremost at all costs, but we need to have the backup to make sure we are looking at intelligence on a worldwide basis. The intelligence reserve corps will do that. We don't want to miss a nuclear test. I am sorry; we have in the past. The intelligence community has missed it. We don't want that to happen again.

Finally, I do think that our reform bill should establish a permanent analytical red team under the national intelligence director to test the key underlying—I use the word ''assumptions'' in analytical reports.

The legislation before us includes a review unit under the office of the new ombudsman which is helpful but, if I may be allowed to say so, I don't think goes quite far enough and simply will be a matter of discussion for the floor. I believe we need a red team unit to work inside the analytical process before it has produced a product. In other words, as intelligence reports are being formulated, not after the fact of their formulation into a product. I hope we can work on that concept as we debate the legislation.

In closing, I believe the bill before the Senate has taken an extremely complex and in certain respects arcane subject matter, the organization of the U.S. intelligence community, and proposed a sensible approach to long overdue reform. This bill will make considerable headway toward learning from the mistakes of the past and strengthening our national security.

I again thank Senator COLLINS, Senator LIEBERMAN, and their staff for working in the highest tradition of this body.

I also want to extend my appreciation to Majority Leader FRIST and Minority Leader DASCHLE for making the national intelligence reform the top priority of the Senate in the waning days of this Congress.

Two weeks from the third anniversary of the September 11 attacks, we stand on the threshold of passing landmark legislation that few would have thought possible even 3 weeks ago. The planets are aligned. Let's finish our work and pass this legislation.

I ask unanimous consent I be added as a cosponsor.

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

The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from West Virginia for his eloquent statement of support for this legislation. As vice chairman of the Senate Intelligence Committee, he brings extraordinary knowledge to this debate. We are very grateful for his contributions to the Collins-Lieberman bill.

As both Senator LIEBERMAN and I mentioned, Senator ROCKEFELLER responded to our request for input and advice. We incorporated into our legislation several of the suggestions he provided. We are very grateful to have his support. It means a great deal as we proceed with this debate.

Mr. LIEBERMAN. Madam President, let me join Senator COLLINS in thanking Senator ROCKEFELLER across the board—most immediately, to say how significant it is to Senator COLLINS and me that Senator ROCKEFELLER has joined as a cosponsor of this proposal. Senator COLLINS and I happen to not only be on the Governmental Affairs Committee, we are on the Armed Services Committee, so we know something about intelligence. Truthfully, we do not claim expertise, and the Senator has expertise.

As we have discussed, Senator FRIST and Senator DASCHLE were very wise in giving our committee jurisdiction because we are the committee on governmental reorganization without a particular interest. But to do our job well we depended on the members, the leaders of the other subject matter committees to counsel with us and to help turn out the best product we could. We sent letters to all the relevant committees, and the Senator responded magnificently. The Senator's imprint is all over this bill.

His statement today was eloquent and rose to the national responsibility. I appreciate it greatly.

The problem for Senator ROCKEFELLER is that Senator COLLINS and I are now not going to let him leave the Senate floor for the remainder of the debate—well, occasionally. The Senator's informed involvement in this legislation will help the Senate do the right thing, which is to pass this bill and hopefully get it enacted before we leave so we can get it going for our intelligence services.

I thank the Senator for all he has done.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I begin by commending the leadership from both sides of the aisle for working together to allow critical debate to begin today on legislation to implement the 9/11 Commission recommendations. In my view, this debate is perhaps one of the most important that will be held during the 108th Congress.

I acknowledge the great leadership of the bill managers, Senators COLLINS and LIEBERMAN, for their bipartisan work in reporting the pending legislation, reform legislation to the Senate. It is my understanding the bill was reported out by unanimous vote through the Governmental Affairs Committee, which is a significant accomplishment. They have developed sound legislation following the numerous hearings they held during the last 2 months. I commend them for their dedication to this very important legislation. Also, I point out that Senator COLLINS and Senator LIEBERMAN, their staff, and members of the committee gave up a significant part of their August recess in order to hold a sufficient number of hearings in order to be able to frame this legislation.

We have come a long way since 2001 in enhancing this country's ability to prevent and respond to terrorist attacks, but, as the 9/11 Commission said in its final report, we are not yet safe. Increasing our safety against terrorist attack requires new strategies, new ways of thinking, and new ways of organizing our Government. That is what this legislative debate will be all about.

The 9/11 Commission's underlying goal was to determine where we went wrong and what we can learn from identified failures, weaknesses, and vulnerabilities in order to make necessary systematic corrections to better protect our Nation. I firmly believe the Commission accomplished its enormous assignment. It carried out a far-ranging and candid assessment in order to account for the failures of vision, threat assessment, and policy actions that preceded the attacks. I again thank Governor Kean and Congressman Hamilton for their commendable leadership of the Commission and the other Commissioners and their staff as well. They performed a tremendous service for our country while leaving politics at the door. Now it is the turn of the Congress to act on the Commission's report.

Earlier this month, I joined with Senator LIEBERMAN and others in introducing comprehensive legislation to implement all of the 9/11 Commission recommendations. The bill before the Senate, developed by the Governmental Affairs Committee, S. 2845, the National Intelligence Reform Act of 2004, addresses the Commission's recommendations regarding intelligence reform, information sharing, and civil liberties. It is Senator LIEBERMAN's and my intent to ensure the Commission's other recommendations—those not already addressed in the underlying bill—are fully debated; therefore, we will be offering amendments we hope will be adopted in order for the Senate to send to conference a comprehensive bill addressing the full range of the Commission's recommendations.

AMENDMENT NO. 3702

(Purpose: To add title VII of S. 2774, related to transportation security)

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3702.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. MCCAIN. Madam President, this amendment is designed to address the transportation security-related recommendations of the 9/11 Commission. The amendment is almost identical to title VII of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which Senator LIEBERMAN and I introduced earlier this month.

It is important that during this debate we acknowledge the progress that has already been made since September 11 in improving transportation security, especially for aviation. However, as the Commission points out, significant challenges remain. For example, the computer systems and protocols used to vet passengers before they board a plane are not substantially different than the systems that failed to prevent the terrorists from boarding the planes on September 11.

The Commerce Committee held a hearing on August 16, 2004, to examine these recommendations and heard testimony from the Commission and the Department of Homeland Security. This amendment reflects both the Commission's recommendations and that testimony.

The amendment implements the Commission's recommendations on transportation security in the following three ways: One, establishing a national strategy for transportation security; two, assigning responsibility for the no-fly list to the Transportation Security Administration; and three, enhancing passenger and cargo screening.

I will briefly discuss each of these recommendations.

The Commission found that TSA had no comprehensive strategic plan for the transportation sector or plans for the various transportation modes—air, sea, and ground—and, therefore, called for such a plan to be developed. This amendment would require the Department of Homeland Security to develop a strategy that includes identification and evaluation of homeland transportation assets susceptible to attack; analysis of methods and technologies associated with transportation security methods; the development of risk-based priorities and deadlines; a plan that assigns roles to the Federal Government, State government, local governments, and public utilities while encouraging public sector cooperation and participation; an outline of response and recovery responsibilities; prioritization of research and development objectives; and recommendations for a budget and appropriate levels of funding. The amendment also requires the strategy to be developed and transmitted to Congress no later than April 1, 2005, and subsequent submissions would be required not less frequently than April 1 of each even-numbered year.

We must indeed make sure our skies are safe. But we cannot focus only on the so-called last war. Recent events around the world have shown that other modes of transportation are vulnerable to terrorist attacks. We must ensure that we are aware of threats aimed at any and all modes of transportation as we determine how best to manage our resources to defend our homeland. This comprehensive plan, calling for specific criteria to be considered, will be a strong step in that direction.

Understandably, aviation was the subject of our immediate reaction to 9/11. I think it is clear events such as the Madrid rail bombing and other events throughout the world indicate that we must be equally attentive and equally committed to addressing those threats as well.

The 9/11 Commission also recommended that the process of screening passengers against the no-fly list be performed by TSA and should utilize the larger set of watch lists maintained by the Federal Government. It further suggested that air carriers should be required to supply the information needed to test and implement this new system. Based on the Commission's recommendations, this amendment directs the Secretary of Homeland Security to implement a procedure under which the TSA compares information about passengers aboard all passenger aircraft with a database containing known or suspected terrorists and associates, commonly known as a no-fly list. This procedure is currently performed by individual air carriers, meaning each air carrier has its own separate no-fly process.

By placing the burden squarely on the TSA, we will ensure there is a single database used to check the names of passengers against. I might add that I hope the TSA moves forward with its assessment on how best to develop a prescreening program that will assess the risk of passengers even if they do not appear on the no-fly list.

The Commission also concluded that further improvements are needed in passenger and cargo screening. For example, currently there is no widespread use of technology to screen the actual passengers for explosives at passenger checkpoints, but only for screening passengers' checked luggage and carry-on luggage. Based on the recommendation of the 9/11 Commission, this amendment directs the Secretary to take action in improving passenger screening checkpoints to detect explosives. Within 90 days after the implementation of this act, the amendment would call for the Secretary to transmit a report and schedule to the Senate and the House of Representatives on how to achieve the objectives previously mentioned in this section.

This amendment also directs the Secretary to take action to help improve the job performance of airport screening personnel, as well as to conduct a human factors study to better understand problems with performance. The Secretary is further directed to expedite the installation and use of baggage-screening equipment and to ensure that the TSA increases and improves its efforts to screen cargo.

The amendment also would direct the Secretary to initiate a pilot program for air carriers to deploy hardened cargo containers on passenger aircraft that also carry cargo. This requirement is modified from the one we introduced on September 7, which would have required a hardened container on every passenger aircraft. Upon further review, it is apparent there are certain technical and implementation issues that have to be addressed before the use of these containers can be universal. Therefore, I have modified this proposal to require TSA to initiate a pilot program to further explore the feasibility of this technology.

Madam President, this amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring that we move forward in addressing the vulnerabilities in our transportation systems. These provisions should not be controversial, and I urge my colleagues to support this amendment.

I would also like to add there will be further amendments that will come before the body, particularly on rail as well as port security. I remind my colleagues that some of those may be very expensive and have a very high price tag associated with them. I hope, while supporting efforts to improve rail and port security, we would also be cognizant of the fact that we cannot do all things to all means of transportation at all times.

However, this is a great opportunity for all of us to improve all of our security, whether it be aviation, port, rail, bus, or other areas of vulnerability, and I urge my colleagues to bring forward those amendments as quickly as possible so we can dispose of them and, perhaps this week, bring forth a product all of us can support.

Madam President, I again express my appreciation to Senators COLLINS and LIEBERMAN for the incredible amount of work that they, their staffs, and other members of the committee have performed, which has resulted in an incredibly laudable product, supported by every member of the committee. I hope we will proceed in that same spirit as was exhibited in the Governmental Affairs Committee on both sides of the aisle so we can make sure we debate thoroughly and address the further challenges that we face, including addressing in one way or another all 41 recommendations of the 9/11 Commission.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the chairman of the Commerce Committee, the distinguished Senator from Arizona, for his contributions to this entire enterprise. I am very grateful to have his support for the underlying bill drafted by Senator LIEBERMAN and myself. And I very much appreciate his offering of the first amendment to strengthen the bill still further, by adding one of the recommendations made by the 9/11 Commission.

As the Senator indicated, the Governmental Affairs Committee largely confined its review to the major recommendations of the Commission that had to do with the reorganization of our intelligence community. That does not mean, however, that we slight in any way the many other recommendations made by the Commission. The amendment of the Senator from Arizona would implement the transportation security recommendations of the 9/11 Commission.

It is my understanding the Senator's amendment was drafted in consultation with officials from the Department of Homeland Security. I believe it will help make our Nation more secure. Specifically, the 9/11 Commission recommended establishing a national strategy for transportation security, assigning responsibility for the no-fly list to the Transportation Security Administration, and enhancing passenger and cargo screening.

The amendment offered by the Senator will require the Secretary of the Department of Homeland Security to develop and implement a national strategy for transportation security and to revise and update that strategy as necessary to improve or maintain its currency.

I particularly want to comment on the provisions of the McCain amendment that task the TSA with the responsibility of developing the no-fly list and comparing the names of air passengers against the Government database containing the consolidated terrorist watch list.

I think recent incidents in the news show why it is a good idea for the Transportation Security Administration to have that authority rather than vesting it in the airlines, as is now the case. I would indicate to my colleagues that the Department of Homeland Security agrees with Senator MCCAIN that it is the more appropriate entity to perform this matching of names against the Government's database.

Two incidents which come to mind are, first, one of our colleagues, the senior Senator from Massachusetts, finding that he had difficulty boarding flights because of confusion with the names listed on the terrorist database. I have a similar case of a retired physician in Camden, ME, whose name, unfortunately, including his middle initial, is very similar to a name that is on the terrorist watch list. As a result, this retired physician, who is no more a terrorist than you or I, Madam President, has an extremely difficult time every single time he flies. That shows me that we need to do a far better job of improving the quality of that watch list to make sure it is consolidated but also to make sure it is accurate and that people who have similar names are not needlessly subjected to an in-depth search or even denied boarding privileges altogether.

The second incident involves the singer formerly known as Cat Stevens, who was allowed to board an air flight from London to the United States recently because the airline was using a list that did not include all of the names on the terrorist watch list. So clearly we have a problem in that direction as well. There are too many watch lists. They need to be consolidated.

The quality of information on those lists needs to be improved to make sure innocent Americans are not needlessly targeted, and it should be a Government responsibility—that of the Transportation Security Administration—to maintain and check these databases against the lists of airline passengers. It is really not fair to ask the airlines to accept that responsibility, particularly when they may not have access to the entire database that the Government has compiled.

The McCain amendment appropriately vests in the Transportation Security Administration the responsibility for the no-fly list and for checking airline passengers against this list. I again emphasize that the Department of Homeland Security agrees that TSA should assume that responsibility and it should no longer be carried out by the airlines.

For these reasons, I urge adoption of the McCain amendment. I believe it strengthens the Collins-Lieberman bill by incorporating some worthwhile and commonsense recommendations made by the 9/11 Commission in the area of airline security.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I thank the distinguished chairman, Senator COLLINS. I would like to have a rollcall vote on this, but that rollcall vote would be held at the discretion of the majority and the Democratic leaders. I ask for the yeas and nays, and I ask unanimous consent for the yeas and nays at a time agreed to by the majority and Democratic leaders.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank Senator MCCAIN for proposing this amendment as a part of the package that he and I introduced a while back as a full bill implementing all of the recommendations of the September 11 Commission. This is not in any sense a detraction from the bill Senator COLLINS and I have brought out. It is in addition to it and would make it stronger.

I wish to speak at length on the proposal, but I note the presence on the floor of Senator FEINSTEIN who I am proud to say is a cosponsor of the proposal that Senator COLLINS and I have put before the Senate. She has been a leader on intelligence matters, one of the first in this Chamber to offer a proposal for reform and reorganization of the intelligence assets of the American Government. Her ideas greatly informed the proposal that we put before the Senate today. I am grateful, as is Senator COLLINS, for Senator FEINSTEIN's support.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I thank the distinguished ranking member.

Let me begin by thanking the chairman of the committee, the distinguished Senator from Maine, the ranking member, Senator LIEBERMAN, and the Governmental Affairs Committee for a very good bill. As a member of the Intelligence Committee, one who has been for the concept of a strong, independent director of national intelligence for 3 years now, I was surprised to see the strong quality of the product that came out, because this committee has actually entered into some of the nitty-gritty and tried to come up with solutions that would stand the test of time. I thank them for their work. It has been excellent work, and it puts a product before the Senate that we can all be proud to discuss. It contains no poison pills. It is a straight bill. It deals with the subject at hand in a very meaningful way.

As I mentioned, I have believed for sometime now that the way in which our intelligence community is structured is really fundamentally flawed. It is unsuited for the 21st century, when we are not talking about intelligence agencies of large powers but we are talking about asymmetric terror.

In the context of intelligence, we have seen three comprehensive investigations into recent failures of the intelligence community. Senator COLLINS, Senator LIEBERMAN, and Senator ROCKEFELLER have mentioned many of them. Certainly, there was the joint inquiry of the House and Senate Intelligence Committees into the attacks of September 11. There was the Senate Select Committee on Intelligence investigation, resulting in a 300-page report that we recently completed, which investigated and reported on the intelligence, the findings, and the recommendations—all related to weapons of mass destruction in Iraq. Then, of course, there was the 9/11 Commission, which investigated the attacks on 9/11, a very comprehensive report and review, which has, frankly, brought most of the decisionmakers, as well as the

country, into alignment with the concept that we do need a strong national director of intelligence.

In each of these cases there were explicit and implicit findings that touched on how our intelligence community could fail so badly. Issues of funding, of education, of risk taking, and, frankly, of plain incompetence surfaced. Even today, there is still denial that many of the findings of weapons of mass destruction were simply wrong, deeply flawed, or bad. This will need to be remedied.

In my view, these failings were symptoms of a failed structure; again, of a structure that was built for the last century's conflicts and unsuited to this new war of asymmetric terror.

I believe the most important steps needed to address these structural failings revolve around the office of the Director of Central Intelligence, known as the ''DCI.''

Up to this point, there has been a nominal head but a head of the Intelligence Community without the necessary authority. That post carries two handicaps. Those are built into its structure and, I believe, lead that structure to fail.

First, the individual serving as DCI has two basic, incompatible jobs: leader of the intelligence community, which includes 15 often fractious Agencies and Departments, and in that role is the principal intelligence adviser also to the President; and leader of the Central Intelligence Agency, which is, of course, only one of the 15 agencies which make up that big fractious community.

These two jobs are not compatible. They each take up far too much time. They each require a laser-like focus on its own unique mission. Worse yet, they can be in direct conflict, because the needs of the intelligence community in terms of mission, resources, and strategy may not be exactly what is wanted by the Central Intelligence Agency. The problem is that the Intelligence Community and the Central Intelligence Agency both need and deserve full-time leaders. That, of course, is the heart of the argument for this bill.

Secondly, even under the current structure, the DCI lacks basic tools needed to run any large institution in Washington. And what are they? Budget, personnel, and statutory authority.

Under current law, the DCI nominally is charged with administering the money and people who make up the intelligence community and for formulating a budget presented to us in the Congress.

Today, in reality, the DCI has little control of much of that budget, with more than 80 percent actually controlled by the Secretary of Defense. He is unable to move personnel, or shift strategic focus, in an effective way. One chilling example was revealed by the investigations into 9/11, where DCI Tenet issued an order declaring war on al-Qaida in 1999, only to find in 2001 that few outside the CIA even heard about it, much less listened to it.

The solution to the second problem is to ensure that the position of intelligence community director is provided with real budget authority, real personnel authority, and real authority to set strategy and policy, and this bill does that. I am very thankful for that.

The bill before us today builds on these earlier efforts and I strongly believe accomplishes the basic and necessary goals.

The bill creates a national intelligence director, separate from the CIA Director. The bill invests this director with meaningful budget authority, effective personnel authority, and the ability to set strategy for the entire intelligence community. And it ensures that the national intelligence director can set priorities for intelligence collection and analysis, and manage tasking across all 15 agencies to ensure that it gets done and done right.

One of the Senate Intelligence Committee's findings in our report was that the collection and analysis that went into the compilation of the national intelligence estimate was deeply flawed, and that there were differences of opinion between agencies, whether it was aluminum tubes, where the Energy Department's intelligence and the CIA's differed, or whether it was with the unmanned aerial vehicles, where the intelligence agencies of the Air Force and the CIA differed, or whether it had to do with biological mobile labs, where the Secretary of State went out before the United Nations with deeply flawed intelligence. But the analysis and collection of that intelligence had deep flaws, which made it bad intelligence.

This bill provides the national intelligence director also with a general counsel, inspector general, chief financial officer, human resources officer, and chief information officer, who together can ensure that effective organization and guidance can flow through the entire community. That is a good thing.

I will support the bill because I believe it accomplishes the task at hand: making necessary changes to our intelligence community structure.

That said, I believe there is some room for improvement. I want to take a few minutes to talk about that, and I want to offer to continue to work with my colleagues to improve this bill during this next week. Let me give you some of the things I am concerned about.

First, I am concerned that the bill leaves ambiguous the relationship between the new national intelligence director and the Federal Bureau of Investigation. Let me give you some specifics. The bill incorporates, with no change, current law, which defines the role of the FBI's intelligence activities into this new bill. However, the current law is confusing, it is internally inconsistent, and it is a source of many of the problems that beset the FBI as a part of the intelligence community. I believe we must clarify this to do three things: First, we have to make it absolutely clear that counterintelligence investigations that involve the ''plans, intentions and capabilities'' of foreign nations and organizations, including terrorist groups, are part of the National Intelligence Program and thus under the overall supervision of the National Intelligence Director. This bill does not yet do that. For instance, the investigation of suspicious individuals taking flight lessons prior to September 11, which resulted in the ill-fated Phoenix memo, should clearly be a part of the intelligence community's responsibilities.

Second, we should establish in law the FBI's Office of Intelligence. The office of intelligence is created on page 7, with a mention under the programs of the bill. But it is not further defined anywhere in the bill. I suggest that it be defined on page 127, line 20, of the bill, and that it be defined to make it crystal clear that within the FBI this office is the source of authority and guidance for the intelligence activities of the FBI.

Third, we should recognize in law that old, rigid divisions between law enforcement and intelligence make no sense. This can be accomplished by clarifying the definition section of the bill to remove the old ''carve out'' for ''counterintelligence and law enforcement'' activities within the FBI.

For example, an FBI investigation into the activities of individuals suspected of illegally providing funds to overseas terrorist groups is both a law enforcement investigation and an intelligence effort.

So I hope to offer an amendment, and would like to work with both Senators, the chairman and the ranking member, to clarify these definitions and remove the poorly worded ''carve out'' for ''counterintelligence'' investigations; to ensure that the Office of Intelligence is defined in law, with clear responsibility for foreign intelligence; and to ensure that the new ''National Intelligence Director'' plays a guiding role in the FBI's efforts to improve its ability to function as an intelligence agency.

Next, I am concerned that the bill leaves a similar ambiguity in the relationship between the authorities of the National Intelligence Director and the Secretary of Defense. This problem flows from the fact that the bill refers to ''tactical'' military intelligence, but does not define it. I believe we can remove a potential source of contention between the director of national intelligence and the Secretary of Defense by incorporating a set of definitions, so everyone knows exactly what is tactical intelligence and, thus, outside the scope of the National Intelligence Director's review. So we have that language and I would like to pass it by the chairman and ranking member before I offer it, which would includes a clarifying definition.

Finally, I must say—and this I have gone back and forth on—I remain troubled that under this bill the Director serves at the pleasure of the President. When I introduced my first bill in 2002, the Director served at the pleasure of the President. When I introduced the second one in 2003, the director served at the pleasure of the President. Then I began to think about policy and intelligence and recognized that the two should remain separate, and I recognized that it is necessary to give this new National Intelligence Director some separation from the President's policies, or the Congress's policies. The only way to do this is with a term. I know that the Senator from New Jersey, Senator LAUTENBERG, offered in committee a 5-year term. I believe he was not successful in pressing his case at that time. I have thought about a 10-year term.

I remember the Casey days. I do not think we want to go back to those days, but I also think we need to keep policy and intelligence separated. So I hope Senator LAUTENBERG will offer his amendment, and I will support it if he does.

Before I end, I want to say a few words about practical considerations related to the bill.

It is my understanding that the House of Representatives may pass out a bill containing extremely controversial provisions unrelated to intelligence reform. I am concerned that this is a thinly veiled effort to introduce ''poison pills'' into desperately needed legislation. One House Member even referred to having Democrats ''over a barrel'' in a description of this strategy. This is no strategy at all. I think if this were to happen, and I certainly hope it does not happen, Americans are going to see right through it.

The Senate, in this bill, has set the tone, and the tone is a well-considered, well-crafted bill which deals solely with the issue at hand. In my view, that is what should be passed by both parties and both bodies.

I am hopeful that our leadership—the majority and the minority leaders—will be able to make every effort to resist this. I think to get into PATRIOT Act items—this is under the jurisdiction of the Judiciary Committee. We have held several hearings. We will hold more oversight hearings. There are 156 sections of the PATRIOT Act; 16 of them sunset in December of next year. We will do our due diligence, and I say that as someone who has supported the PATRIOT Act, supported those 16 sections, and made some of the amendments.

It is extraordinarily important that we be able to work in a careful method of oversight responsibility. I think something coming from the House which pushes in this direction would not be welcome.

In conclusion, I, once again, compliment Senators COLLINS and LIEBERMAN and the Governmental Affairs Committee for a job well done. I think we can pass this bill, and I hope we continue—I was going to say an ''aroma of bipartisanship.'' I am not sure ''aroma'' is the right way to say this, but in the bipartisanship model both the chairman and the ranking member have set forward. If we do, I think we deliver for the people of this Nation a very fine work product.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the distinguished Senator from California for her longstanding expertise in this area. I know the Senator presented a bill to create a national intelligence director long before it was popular to do so. She has been a leader in intelligence reform. She has made several very constructive and helpful suggestions and recommendations to the committee. We very much appreciate her leadership, and we consider it a great coup to have her support for our legislation.

I thank her for her hard work and her leadership. We look forward to continuing to work with her.

Mrs. FEINSTEIN. Madam President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I join with Senator COLLINS in thanking Senator FEINSTEIN for her leadership over the long term on matters of national intelligence, but also for a very thoughtful statement today and to express, again, not just gratitude but our real pleasure that she has made a judgment that the proposal we have made to Congress deserves her support as a cosponsor. That means a lot to Senator COLLINS and me, and I know it will to all the members of our committee.

I also thank her for the suggestion she made in her statement about some areas of the bill she would like to work with us to strengthen. I know we would be delighted to do that.

Finally, it may have been inadvertent, but I like the idea of the sweet smell of bipartisanship that may overwhelm this bill. Aroma is a better term.

Mrs. FEINSTEIN. Madam President, I thank the Senator.

Mr. LIEBERMAN. Madam President, I know the Senator from Oregon is in the Chamber. If he has a moment or two, I would like to go forward with a statement I intended to make in response to the amendment Senator MCCAIN laid down, which is the pending amendment.

I rise to support that amendment, and I ask unanimous consent that I be added as a cosponsor.

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

AMENDMENT NO. 3702

Mr. LIEBERMAN. I thank the Chair.

Madam President, in the aftermath of September 11, we have obviously taken some very aggressive steps to improve airline security. Those were critical improvements and, in some sense, inevitable after airplanes were used to attack us on September 11. But there is a lot more to do, and not just in aviation. We have to confront threats facing all modes of transportation.

I continuously meet people who express to me worries about one or another mode of transportation they use—trains, buses, et cetera—because they are now in some sense reassured by the presence of security around air travel but miss it and are unsettled when they do not find similar measures in other modes of transportation. So we have to confront the threats from terrorists facing all modes of transportation. Otherwise, we are going to be fighting the last war while our enemies probe for other weaknesses that we have left undefended.

Before I go into a little more detail on this amendment, I want to say this is the first of a series of amendments that Senator MCCAIN, myself and others will offer on the Governmental Affairs Committee's National Intelligence Reform Act of 2004, the proposal Senator COLLINS and I put before the Senate. Obviously, the underlying bill contains several critical reforms and focuses on matters of intelligence, which our committee took to be the charge we were given by the bipartisan leadership of the Senate.

I am very proud of the way in which the Governmental Affairs Committee addressed the issues that fell within that mandate that Senator FRIST and Senator DASCHLE gave us. Obviously, there were other important recommendations of the 9/11 Commission that fell beyond the committee's purview. In fact, it made 41 recommendations to help detect and prevent terrorist attacks on the United States or on American citizens, wherever they might be.

Some of these were quite broad. Obviously, what the Committee focused on is the restructuring of the intelligence operations of the executive branch. As I indicated in an earlier statement today, those recommendations are the ones the Commission felt were most urgent because we are under the threat of attack, and we need to reorganize and focus our considerable intelligence resources. But there were other recommendations the 9/11 Commission made. For example, they urged diplomatic outreach and educational grants to the Muslim world because a realistic offer of hope and freedom to the hundreds of millions of people living in countries that are primarily Muslim can be a much greater force, a much more appealing force, than the radical extremist terrorists called to Jihad.

Other recommendations were to tighten and coordinate the screening and identification systems we use to admit people into the United States of America or when we give them access to transportation systems and other key facilities within our country.

Other recommendations deal with the distribution of homeland security grants or increasing security for all forms of transportation.

All of those, and others, went beyond the Governmental Affairs Committee's mandate.

Two or three weeks before the 9/11 Commission made its report, Senator MCCAIN and I met with Governor Kean and Congressman Hamilton, and we said to them—at that point we had no idea what the pace of the congressional reaction to the Commission report would be. We said: We are going to make you a promise. After you issue your report, our staffs and we will work hard to translate every recommendation of your report into legislative language, and introduce it so there could be a vehicle around which we could concentrate our support.

We did not know at that time the Governmental Affairs Committee would be asked to take on this role by Senator FRIST and Senator DASCHLE and that the congressional pace of reaction would quite appropriately be quick, leading us to set aside our normal August recess, have a number of hearings, and now have the bill before the Senate.

Still, there are parts of the Commission report that, as I say, are not explicitly within the purview of the Governmental Affairs Committee's work and that is what the amendments of Senator MCCAIN, others and I are intending to address; to complete the full package of reforms recommended by the 9/11 Commission after its own 20 months of hard work. Put all of this legislation together and there will be a package of reforms, both broad and deep, that will make America and Americans, wherever they are, safer and lead us to the victory in the war on terrorism that we all seek and know first must come with the use of force and any and all efforts we can make to capture and/or kill terrorists, but will take more than that as well.

The amendment Senator MCCAIN introduced today, the first of these amendments to go beyond intelligence reform in the Committee bill, deals with transportation security. It comes from our conclusion and the Commission's conclusion that we need to look at protecting our transportation systems the way a general looks at protecting supply lines. A well-coordinated attack on our transportation systems, or the key infrastructure that supports them, would be staggering to our homeland security and, of course, to the personal security of many Americans.

Imagine a major city being crippled because an attack had rendered mass transportation unusable, or imagine not even being able to resupply our troops in Iraq and Afghanistan because we cannot move the goods from warehouse to port.

As we look worldwide, we know terrorists often target transportation systems. We are not imagining these threats. As we know from the news, they have not only used airplanes for their inhumane, cruel purposes, to express the extent to which they hate anyone who is not like them, they have used buses, trains, and shipping vessels. With the exception of aviation, the fact is in the United States of America we are still dangerously behind in our efforts to secure our own vital transportation networks.

As the 9/11 Commission notes, ''over 90 percent of the Nation's $5.3 billion annual investment in the TSA goes to aviation.'' Important? Of course. Critically important after September 11, but its not enough to meet all of the threats in transportation that face us.

This amendment requires the Transportation Safety Administration to at least evaluate the threats, vulnerabilities, and risks faced by all modes of transportation, and then set priorities and deadlines—including budget and research and development priorities—for addressing those needs; investing in new technologies that can help us gain the security in all modes of transportation that we need. This kind of transportation security strategy has been talked about for many months but it just never seems to happen, and that is why this amendment requires the TSA to complete this critical work under the direction of the Secretary of Homeland Security by April 1, 2005.

The Transportation Research Board, the Government Accountability Office, and other independent experts have all called for this exact vital step. It will set the stage for critical new initiatives that must follow to better protect rail, transit, ports, and other key modes of American transportation.

There is still more to do in the area of aviation security. That is why this amendment calls on TSA to step up efforts to detect explosives on individuals trying to board planes. Currently, as most of us who travel know but probably do not think about, only checked bags are routinely screened for explosives. This amendment would require the Department of Homeland Security to implement plans to screen all passengers for explosives.

The amendment would also direct the TSA to begin comparing passenger lists against the Government's new consolidated terrorist watch list. This is not happening yet; not happening to the extent we want it and need it to happen. It makes such common sense that it is frustrating to the point of being infuriating that we are not yet doing it. That we are not using the capacity of information networks and computers to check passenger lists against terrorist watch lists so none of us is on a plane with someone who intends to use that plane for an attack or to bring the plane itself down.

This is the first of several amendments Senator MCCAIN and I will be offering. Again, I believe it is important we act on all of these as well as, of course, the underlying Governmental Affairs Committee intelligence reform proposal.

We find ourselves at one of those rare moments in time, certainly in congressional time, when both the moment to act and the momentum for action have come together in a truly bipartisan way in Congress, in the executive branch and, of course, most importantly of all, among the American people to whom we owe the greatest responsibility.

With that kind of general agreement nationally, passing a complete package of legislation responding to the strong compelling arguments in the bipartisan 9/11 Commission report is within our grasp, and adopting this amendment will be yet another step toward achieving that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I ask unanimous consent to set aside the pending MCCAIN amendment.

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

AMENDMENT NO. 3704

(Purpose: To establish an Independent National Security Classification Board in the executive branch)

Mr. WYDEN. I send an amendment to the desk on behalf of myself, Senator LOTT, Senator BOB GRAHAM, and Senator SNOWE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself, Mr. LOTT, Mr. GRAHAM of Florida, and Ms. SNOWE, proposes an amendment numbered 3704.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. WYDEN. Without turning this into a bouquet-tossing contest, I will say how lucky I think we are to have Senator COLLINS and Senator LIEBERMAN, who have long practiced good government, handling this legislation. This is going to be a long and arduous task and to have this bipartisan duet at the helm is what is going to make this possible. I have enjoyed working with them on this and so many other issues in the past. We are going to get this done. The country is going to be safer and stronger for it, and I am very grateful for the work of the Senator from Maine and the Senator from Connecticut.

Governor Kean, the chairman of the 9/11 Commission, said three-quarters of the classified material he reviewed for the Commission should not have been classified in the first place. I think Governor Kean's comments reflect the state of where we are with respect to how Government documents are classified today, and it is for that reason that a bipartisan coalition has spent a considerable amount of time on the Intelligence Committee. Senator LOTT and Senator SNOWE and I serve there now.

Senator BOB GRAHAM, of course, chaired the committee, and the four of us, two Democrats, two Republicans, have teamed up so as to try to make sure that in this important reform legislation some common sense is brought to the way that information is classified for national security purposes.

The ability to make documents secret is one of the most powerful tools in our Government. It is a power wielded generously by those in 18 agencies that deal with intelligence. My concern is that the Senate could spend weeks debating flowcharts and organizational changes and moving the boxes around with respect to where people in the intelligence community sit, but if the underlying way in which information is classified is not reformed, it is going to be very hard to make information sharing throughout the intelligence community effective. Very little will have been accomplished if information continues to be classified for purposes of protecting somebody's political career rather than our national security or if classification decisions continue to deprive the American people of their ability to judge the effectiveness of their Government on national security matters.

The 9/11 Commission report says the need to restructure the intelligence community grows out of six problems. One of them, the Commission says at page 410, is that, in their words, ''The intelligence community is too complex and secret.''

The Commission states:

> Over the decades, the agencies and the rules surrounding the intelligence community have accumulated to a depth that practically defies public comprehension. . . . Even the most basic information about how much money is actually allocated to or within the intelligence community and most of its key components is shrouded from public view.

The bipartisan amendment Senator LOTT, Senator BOB GRAHAM, Senator SNOWE, and I offer today is premised on the belief that it is time to clear the fog of secrecy and that it is possible to do that so as to protect this country's national security. Our legislation establishes a three-person board with the President and the bipartisan leadership in the House and Senate each recommending one member, subject to Senate confirmation. Our board would have two tasks: first, to review and make recommendations on the standards and processes used to classify information for national security purposes, and, second, to serve as a standing body to act on congressional and certain executive branch requests to reexamine how a Government document has been classified.

As entities, from the traditional intelligence community to the Environmental Protection Agency, now have the power to classify documents, the board would look at national security classification across our Government. Its creation would give the Congress, for the first time, an independent body to which it can appeal a national security classification decision.

President Truman noted that the Nation's primary intelligence agency, the CIA, was created, ''for the benefit and convenience of the President.'' But the United States cannot preserve an open and democratic society when one branch of Government has a totally free hand to shut down access to information. The lack of an independent appeals process for Congress, in terms of the view of the four of us, two Democrats and two Republicans, tips the scale too far toward secrecy for any administration, and our bipartisan group of four Senators seeks to correct that imbalance.

The 1946 Atomic Energy Act established the principle that some information is born classified. There are certainly important sources and pieces of information that must never be compromised. But over the years, millions and millions of documents that weren't born classified have inherited or adopted or married into a classification. Keeping information secret for political purposes or horse trading intelligence data, especially during this critical time, a time of heightened security, is unacceptable.

Our Government must begin to be more accountable to its citizens. Having all appropriate information about national security is essential to Congress's congressionally prescribed oversight role. Access to information about their own security is the people's right. It is time to stop hiding the facts they deserve to know. Our bipartisan proposal does just that in a fashion that protects America's national security.

According to the late Senator Moynihan, who was an expert on secrecy in Government:

> . . . much of the structure of secrecy now in place in the U.S. Government took shape in just 11 weeks, in the spring of 1917, while the Espionage Act was debated and signed into law.

Eighty years later, Senator Moynihan would note that 6,610,154 secrets were created in just 1 year alone. In fact, only a small portion, or 1.4 percent, was created pursuant to statutory authority, the Atomic Energy Act. Senator Moynihan labeled the other 98.6 percent ''pure creatures of bureaucracy,'' created via Executive orders.

The Secrecy Report Card issued in August by a coalition of groups including the American Society of Newspaper Editors found the American Government spent $6.5 billion last year creating 14 million new classified documents. This is a 60-percent increase in secrets since 2001. These numbers do not even include CIA documents. The Secrecy Report Card also points out that agencies are becoming more creative in their classification systems.

In addition to the traditional ''Limited Official Use,'' ''Secret'' and ''Top Secret,'' some agencies now have something called ''Sensitive Security Information,'' ''Sensitive Homeland Security Information,'' ''Sensitive But Unclassified,'' or ''For Official Use Only.'' It has gotten to the point where Mr. William Leonard of the National Archives Information Security Office—the gentleman who oversees classification and declassification policies; he is known to some as the secrecy czar—believes that the system defies logic in many respects. He has called today's classification system ''a patchwork quilt'' that is a result of ''a hodgepodge of laws, regulations and directives.'' In reality, the Federal Government has so many varieties of classification that it can make Heinz look modest.

In Mr. Leonard's view, the classification system for national system has lost touch with the basics to the point that some agencies don't know how much information they classify or whether they are classifying more or less than they once did or whether they are classifying too much or too little.

The executive branch exerts almost total control over what should or should not be classified. The Congress has no ability to declassify material. So there is no self-correcting mechanism in the system. Even if Members of Congress wish to share information with constituents, it is so complicated for the Congress to release information to the public that no one has ever tried to use this convoluted process. The executive branch has a little-known group that can review classification issues, but it is seldom used and open only to executive branch employees and not to Members of Congress.

What all this means in practice is that with the thump of a stamp marked ''Secret'' some unelected person in the belly of a Federal building has prevented Americans from gaining access to information. That decision cannot be appealed, even by the Congress. There is no independent review of classification decisions by the executive branch. With no chance of unbiased review, classification decisions are ready and ripe for abuse. Agencies wishing to hide their flaws and politicians—and I emphasize this, Mr. President—of both political parties who wish to make political points can abuse the classification guidelines to their advantage. And four Senators, two Democrats and two Republicans, wish to change that.

I, for one, do not subscribe to the view that there is an inherent conflict between the executive branch's accountability to Congress and the American people on the one hand and the constitutional role of the President as Commander in Chief on the other. I believe that a balance can and must be struck between the public's need for sound, clear-eyed analysis and executive desire to protect the Nation's legitimate security interests.

I believe we can fight terrorism ferociously without limiting the rights of our citizens to information. That is what the sponsors of this legislation seek to do.

There should be no room in this equation I have described for the use of

classification to insulate officials and agencies from political pressure. As a member of the Senate Intelligence Committee, I have had lengthy discussions with my colleagues on a bipartisan basis about how to strike such a balance. It is the view of Senator LOTT, Senator GRAHAM, Senator SNOWE, and I that in proposing this amendment we have an opportunity to make the broad overhaul of the national security classification system and to do it in a way that will strengthen the overall reform effort that the Senate is working on.

Finally, the independent board would review and make recommendations on overhauling the standards and process used in the classification system for national security information. The board then submits proposed new standards and processes to both Congress and the executive branch for comment and review. It would then implement the new standards and processes once there has been full opportunity by the executive branch to comment. The board would then begin on an ongoing basis to implement a system, continue to review and make recommendations on current and new national security classifications subject to executive branch veto that must be accompanied by a public, written explanation.

The balance in this legislation ensures that the public and the Congress have access to an independent board for national security matters while ensuring that the Commander in Chief maintain the constitutional prerogative that the Commander in Chief must have with respect to military and foreign policy matters.

For far too long, the executive branch has adhered to the motto, ''When in doubt classify.'' Withholding information to protect political careers and entrenched bureaucracies is a disservice to the American people. It is a perversion of a policy intended to save lives, a perversion that weakens our democracy, and one that could even endanger our people. It is time to throw open the curtains and let the sun shine on American democracy and on the governmental processes we utilize today.

That is what this amendment does.

I see both the chairman and ranking member in the Chamber. Both of them have had an opportunity to see this amendment. I know both of them have a lot on their plates as we try to deal with this important legislation.

I think I can speak for Senator LOTT, Senator BOB GRAHAM, and Senator SNOWE in saying we are anxious to work with the two of them. I know staff has some ideas, some of which strike me as very good, for ways in which we can improve this legislation. I wrap up only by way of saying that I think, with the excellent work they have already done as relates to the organizational structure and the flowcharts and all of the things that we are going to be debating over the next, I hope, few weeks rather than months—but I only say that to maximize the changes which will be made organizationally—we need to find a new way to strike a balance between protecting the country's national security and the people's right to know. I think that balance is out of whack today.

If you look, for example, even at the exceptional work done by Senator ROBERTS and Senator ROCKEFELLER with our committee's report on the Iraq situation with respect to intelligence, had Senator ROBERTS and Senator ROCKEFELLER not dug in as aggressively as they have, my sense is that well over 50 percent of that report would have been classified. In fact, the most important sections would literally receive black ink. We have to do better. I think we can do it on a bipartisan basis. I think doing it will ensure that the important work Senator COLLINS and Senator LIEBERMAN are steering the Senate to will be better. I am anxious to work with both of them and staff. They have both been very gracious as always. I know my cosponsors join me in saying that as we look at various ways to refine this, we are anxious to continue to work in a bipartisan way.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I appreciate the commitment of the Senator from Oregon to work with us on this issue. I certainly understand his frustration at a tendency to overclassify information that it is not warranted to be classified, that is not necessary to protect intelligence sources and methods.

I note a couple of points. One is that the Collins-Lieberman bill vests in the national intelligence director the authority to establish requirements and procedures for the classification of intelligence information.

Another portion of our bill requires the national intelligence director to establish intelligence-reporting guidelines that maximize the dissemination of information, while protecting intelligence sources and methods.

In addition, the administration has expressed grave reservations about the amendment as it is now drafted.

What I would like to suggest and what the Senator from Oregon has graciously offered to do is have our staff on both sides of the aisle sit down with the Senator, see if we can address some of the administration's concerns, see if we can look at language that is already in the bill, and understand how that interacts with the Senator's proposal.

I thank him for his commitment to this area. He has identified a very real problem. I hope, perhaps, we can come up with an approach that will address his concerns.

Mr. LIEBERMAN. Mr. President, I also thank my friend and colleague from Oregon for a very thoughtful statement and a very thought-provoking amendment that he has offered. I know it comes out of his service and the service of the other bipartisan cosponsors on the Intelligence Committee and some experiences they have had, shall we say, which have not been satisfying, in which they have believed they and the public have been deprived of information in a timely way that did not allow them to make informed judgments.

I want to say a few things after thanking Senator WYDEN. One is there are members of our committee who both shared the experience of membership on the Intelligence Committee and brought it to bear on the deliberations of our committee in presenting the Collins-Lieberman proposal which is now before the Senate. That all goes to the priority on sharing of information and the independence and objectivity of intelligence, and on the responsibility of the intelligence community to Congress to provide timely and objective information. And the proposal that the committee brought out is full of provisions aimed at doing just that.

Senator COLLINS has just indicated the central provision for which the national intelligence director is responsible is reviewing and establishing standards for classification of intelligence.

Remember, in the original 9/11 Commission proposal, the national intelligence director was in the Executive Office of the President. We decided—and the Commission ultimately agreed with us—that was a bad idea; that we wanted to establish a standard of independence, openness, and objectivity. We took the position out. The national intelligence director will now be an independent agent setting these standards for classification.

We have broadly adopted a transformational approach to information in which we quite explicitly say we want to go from the Cold-War-era notion that there was a need only to have information if you really needed to know, and that the priority here is on a need to share unless there is a reason not to share. That goes in some cases not to the public but to the other intelligence agencies of our Government and to State and local law enforcement intelligence agencies.

Senator LEVIN, a member of our committee, greatly strengthened building on our requirement in the underlying bill that the national intelligence director must provide national intelligence to Congress and the President that is ''timely, objective, independent of political consideration and based on all sources available to the intelligence community.'' Senator LEVIN extended that to cover the director of the national terrorism center, the other national intelligence centers, the CIA Director, the National Intelligence Council, and restated the mandate to require national intelligence be timely, objective, independent of political considerations, and not shaped to serve policy considerations.

We are asking that the national intelligence director have responsibilities to ensure that the appropriate officials of the U.S. Government, including, of course, Members of Congress, have access to a variety of intelligence assessments and analytical views; likewise, that the national intelligence centers have similar access.

In response to the specific recommendation of your colleague, the ranking Democrat on the Intelligence Committee, Senator ROCKEFELLER, we created the office of ombudsman within the national intelligence authority to serve as an independent counselor, an independent reviewer of analytical product, to address any problems of bias or lack of objectivity or politicization in the intelligence community. The same is true of national intelligence estimates, that they be provided in a way that distinguishes between analytical judgments underlying intelligence.

We have a very strong provision about congressional oversight. The committee included provisions to strengthen the ability of congressional oversight to ensure independent and timely intelligence analysis; that the director of the counterterrorism center, for instance, may testify and submit comments to Congress without clearance from anyone else in the executive branch. The heads of the counterterrorism centers must provide intelligence assessments and certain other information to appropriate Members of Congress. Employees are explicitly authorized to report directly to Congress any evidence showing false statements to Congress and to an intelligence estimate.

There is a real congruence of purpose here in opening up, to the extent allowed by our national security needs, the intelligence that is in the possession of our Government.

I understand this amendment pushes this a step or two forward in focusing beyond what our proposal does in authorizing the national intelligence director to deal with classification standards to create this board. This is the first time I have seen the amendment. I appreciate the work that has been done on it and the purpose behind it, and with Senator COLLINS, I offer to sit and reason together with our respective colleagues, leaders in this field, who are the proponents of the amendment, and see if we can come to some agreement that is progressive but does not take the bill in a direction that might make it hard to adopt everything else we want to adopt.

That is the practical last word I want to offer.

Mr. WYDEN. Mr. President, if I could take perhaps an additional 2 minutes to make a quick comment.

Mr. LIEBERMAN. I yield the floor.

Mr. WYDEN. And then one of our cosponsors, the former chairman of the Intelligence Committee, wants to speak on behalf of the bill, as well.

Mr. President, I ask unanimous consent Senator CORNYN of Texas be added as a cosponsor to the amendment.

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

Mr. WYDEN. Mr. President, very briefly, first I express my thanks to Senator COLLINS and Senator LIEBERMAN for their help. They always go out of their way to help me and I am very appreciative of it.

My only substantive point, because we are going to work very closely, touches on the matter that our distinguished Chair made with respect to the executive branch having concerns about this issue. Every executive branch, whether it be controlled by Democrats or Republicans, will be concerned about this issue. What troubles the four of us is, whether a Democrat is President or a Republican is President, is that there are employees who can take a big old stamp, mark something ''secret,'' and then there is no independent review at all. That has been abused, in our view, on a bipartisan basis. It has been abused by administrations when they were run by Democrats. It has been abused when there have been administrations run by Republicans.

What the four Senators seek to do—now five, with the gracious help of the distinguished Senator from Texas—we seek to strike a balance between the President and the Congress.

What I say to the distinguished chairman of the committee, who makes a good point as to the executive branch, as the four of us talked about this issue—Senator LOTT, Senator SNOWE, Senator GRAHAM, and myself—we felt we would give the President, the executive branch, the first word and the last word on an issue with respect to classification. It is possible under our bipartisan proposal for a President to have the last word with respect to whether a document is classified. What we do, consistent with that principle, is allow for a broad swath of congressional involvement in between the President having the first word and the last word.

I only say to the distinguished chair of the committee, I will work very closely with you and Senator LIEBERMAN. My guess is we can never make the executive branch completely happy on this issue, whether it is controlled by a Democrat or controlled by a Republican. It is in the public interest now to strike a better balance with respect to how Government documents are classified with respect to the Congress and the President. We do that by giving the President the first word and the last word. But without any opportunity for congressional appeal, what we will have is what Senator Moynihan started talking about years ago, which is that in every executive branch, whether controlled by Democrats or Republicans, people in these agencies in the belly of some building somewhere will keep stamping stuff secret because there is no independent review. It is just in the political interests of those people to do it.

I look forward to working with my colleagues. They have been very kind.

I see the former chairman of the Intelligence Committee. My involvement in this issue really stems from the superb work Senator GRAHAM has done. I hope everyone buys his book in hardback. It is a wonderful piece of scholarship with respect to intelligence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I thank my good friend Senator WYDEN for his thoughtful work on this amendment, for his always generous personal relationship, and for his commercial reference to the book ''Intelligence Matters.'' I will be using some of the material from that book in my comments this afternoon as I rise to speak in favor of the amendment which addresses our Government's dangerous tendency toward excessive secrets.

From the very beginning of our Nation, the American people have been concerned with the Government's attempts, almost an irresistible attempt by any government, to hide or to fail to disclose issues that properly should be available to the public.

President John F. Kennedy said in his first year as President:

> The very word ''secrecy'' is repugnant in a free and open society; and we are as a people inherently and historically opposed to secret societies, to secret oaths and to secret proceedings . . .
>
> We decided long ago that the dangers of excessive and unwarranted concealment of pertinent facts far outweighed the dangers which are cited to justify it.

In a free, open, democratic society, we must always begin with the belief that the people should have access to all of the information which the Government holds on their behalf. The only exceptions to this rule should be those made for necessary personal or corporate privacy reasons, such as tax returns, and for legitimate reasons of national security.

Now, of course, there are occasions when the national security of the United States is best served by the withholding of certain information, such as when we conceal the sources and methods of gathering extremely sensitive information to protect the sources themselves. However, our current system of classifying information is being abused to an extent that borders on the absurd. But there is nothing comical about this development.

In my judgment, the two key issues we are going to have to face if we are going to overcome the many fundamental problems which are facing our intelligence community are, first, the inadequacy of our human intelligence to be able to confront the threats that we now face, and, second, this issue of secrecy.

Now, I know that much of our analysis and focus will be on the specific problems identified by various groups which have looked into the events leading up to 9/11, including the Joint

House/Senate Inquiry. However, there are some other issues which are embraced in 9/11 but which go well beyond 9/11. One of those which has been a recurring failure of America's intelligence is the failure to see the big issue. Why was it that our intelligence did not see the fact that although it had stated there were precisely 550 sites where weapons of mass destruction were being either produced or stored in Iraq, once we got to Iraq, the number was actually zero? Can you imagine that we have an address book of 550 sites that were supposed to be the dangerous locations, and as soon as we occupied the country we started knocking on 550 doors and did not find any of it? Think of the damage that failure has meant to the United States as a fundamental rationale for going to war in the first place and to our international reputation.

A second example of the failure to see the big issue is the one Senator Moynihan used as a centerpiece of his book ''Secrecy,'' and that was the fact that our intelligence community failed to predict the collapse of the Soviet Union. As Senator Moynihan pointed out, indicators that the Soviet Union was on the brink of economic collapse were available years in advance of the end of the Cold War. Yet our intelligence community, and specifically the CIA, greatly misperceived the strength of the Soviet economy and, therefore, did not realize that collapse was imminent.

Unfortunately, the CIA and other intelligence agencies insisted on classifying nonsensitive information about the state of the Soviet economy. If this information had been disclosed to the public and to experts outside the Government, we could have seen the CIA was working with flawed data. That flawed data would have been subject to challenge. And perhaps before the collapse of the Berlin Wall we would have concluded that the Soviet Union was not internally stable in order to maintain its position in the military, space, and scientific competition with the United States. Had we done so, this undoubtedly would have allowed us to develop smarter, more effective strategies regarding the Soviets and their allies.

To give one example of that, during the period when it was widely known by many that the Soviet Union was on the verge of collapse, but where we were being told by our intelligence agencies, with information not available to the general public, that in fact the Soviet Union remained a competitive force, we were providing the resistance fighters in Afghanistan with some of the most sophisticated military materials, particularly items such as the Stinger missile, to use in the war against the Soviet Union.

If we had known how close the Soviet Union was to collapse and had thought about the consequences of having hundreds if not thousands of pieces of some of the most lethal military equipment in the world in the hands of those who were resisting the Soviets in Afghanistan, we might have rethought whether that was a wise policy or whether we were pursuing a short-term victory at the expense of arming a part of the world which was going to be our long-term adversary.

Those are the consequences of failure to see the big picture. I believe one of the principal reasons we repeatedly failed to see the big picture is exactly the secrecy which we have imposed upon material, therefore denying the opportunity for a wide range of Americans to see the information, challenge the information, and, if it is unable to sustain that challenge, force the information to be corrected.

One of the more recent failures that was disclosed by both the House/Senate Intelligence Committees Joint Inquiry and the recent 9/11 Commission related to some of the evidence that there was a connection between the Kingdom of Saudi Arabia and at least some if not all of the terrorists inside the United States. This, in my opinion, was one of the most significant findings of the inquiry. Its significance is that if a foreign government is providing support to terrorists embedded inside the United States, it contributes substantially to the ability of those embedded operatives to maintain their anonymity while they are planning, practicing, and executing very complex terrorist plots.

That is what happened prior to 9/11. It was our conclusion that in fact these terrorists were not here alone, that they were receiving that type of support. We raised the question, if it was happening before 9/11, what is our level of confidence that it is not happening after 9/11?

Details of our findings that led us to this chilling possibility were included in the Joint Inquiry's final report.

Let me read from a section of that final report which was made available to the public. But I note the brackets around these paragraphs. Those brackets indicate that while this information was made available to the public, it was only done so after it was sanitized, rewritten by the agencies which had scrutinized this report, particularly the CIA and the FBI. But here is what they would allow to be made available to the American people:

[Through its investigation, the Joint Inquiry developed information suggesting specific sources of foreign support for some of the September 11 hijackers while they were in the United States. The Joint Inquiry's review confirmed that the intelligence community also has information, much of which has not yet been independently verified, concerning these potential sources of support. In their testimony, neither CIA nor FBI officials were able to address definitively the extent of such support for the hijackers globally or within the United States or the extent to which such support, if it exists, is knowing or inadvertent in nature. Only recently, and at least in part due to the Joint Inquiry's focus on this issue, did the FBI and CIA strengthen their efforts to address these issues. In the view of the Joint Inquiry, this gap in U.S. intelligence coverage is unacceptable, given the magnitude and immediacy of the potential risk to U.S. national security. The intelligence community needs to address this area of concern as aggressively and as quickly as possible.]

What happened was that even with that sanitized version of the introduction to that section, then the intelligence community proceeded to censor the rest of the section, page after page. Twenty-seven pages were completely blank so that the American people were never given the opportunity to know what we knew about the role of foreign governments—specifically, the Kingdom of Saudi Arabia—in support of the terrorists. Does it make America safer that this type of information is withheld? What an absurdity.

Of course, this puts Americans at greater risk. Why was this done? Why was this withheld from the American people? I believe it was withheld not for national security reasons. And I might say I am joined in that assessment by my colleague, Senator DICK SHELBY, who reviewed this information, as I had, and concluded that 95 percent of the information which had been censored was not of a national security nature.

Obviously, it was embarrassing, embarrassing to the CIA, to the FBI that such an infrastructure of support could have been allowed to exist and grow in the United States and then be used by people who killed 3,000 Americans.

I believe this information is just one example of the tendency toward excessive secrecy, including the most recent example of that, which is the refusal to declassify any portion of the recently released national intelligence estimate regarding the scenario of future events in Iraq.

This report, which represents the consensus view of all our intelligence agencies, outlines several possible scenarios for the future of Iraq and combines the best information and analysis available within the executive branch. While a few of the sources of information probably should continue to be concealed, the national intelligence estimate itself should not be. As the Congress and the American public debate the best way to proceed in Iraq, we should have access to the best thinking available on that subject.

The administration thus far has characterized the national intelligence estimate on Iraq as being guesses. The administration should act immediately to declassify the national intelligence estimate so that the American people can determine whether it is a mature and professional assessment of the range of choices we have in Iraq.

Our Joint Inquiry recommended that the President and the intelligence agency review the Executive orders, the policies and procedures that govern classification, the withholding from the American people of information. The purpose of this review would be to ''expand access to relevant information for federal agencies outside the intelligence community, for state and local

authorities, which are critical to the fight against terrorism, and for the American public.''

If I could comment a moment on that access to State and local officials, there were at least five incidents within a matter of weeks of 9/11 in which one or more of the terrorists was under the control of a State and local law enforcement officer, generally because they had committed a traffic offense. Yet the State and local law enforcement officers did not have access, because of excessive secrecy, to the information that these very people who were under their direct command were also listed on a terrorist watch list as being people who, had they been outside the United States, would not have been allowed to enter. But now they are in the United States, and the people who are the most likely to encounter them, State and local law enforcement, are denied the information upon which they can protect the safety and security of the American people. It is an outrage.

Two-thirds of these terrorists spent most of their time in the United States in my State of Florida. I am not proud of that, but it happens to be a statement of fact. I have talked with local and State law enforcement leadership in my State and I asked: If the same thing that occurred in the summer of 2001 were to occur in the fall of 2004, what would the result have been? Do you know what the answer is? Exactly the same, that our State and local law enforcement would continue to be denied access to the information that would allow them to be of optimal effectiveness in providing us, the American people, optimal security.

Returning to the recommendations of the 9/11 Joint Inquiry, the Joint Inquiry called on the Director of Central Intelligence, the Attorney General, the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of State to review and report to the House and Senate proposals to protect against the use of the classification process as a shield to protect agency self-interest.

What has happened in the now almost 2 years since this report was filed? The answer is, nothing has happened. There has been no effort by any of those agencies to present to the Congress their ideas of how we can protect ourselves against agency self-interest.

The recommendation also called upon Congress to undertake a similar review of classification procedures and consider in particular ''the degree to which excessive classification has been used in the past and the extent to which the emerging threat environment has greatly increased the need for real-time sharing of sensitive information.''

Again, sad to say, almost 2 years since the report was filed, no executive agencies have taken any action to review and report on their classification procedures. This means that we in the Congress, as the representatives of the people who are being denied this information, must now step forward and force action.

The amendment offered this afternoon by my colleague from Oregon would create an independent national security classification board within the executive branch to review current classification policies and procedures. The board would then propose more coherent, rational standards to Congress and the President and help to ensure that new standards are implemented.

Once the new standards are in place, the board will have access to all documents classified for national security reasons and will have the authority to review decisions made by employees of the executive branch. The board will be able to recommend that the President reverse or alter classifications with which it disagrees. The President will have the authority to ignore the board's recommendation, but the President will be required to notify Congress and the American public that he or she has done so.

Early in our country's history, Patrick Henry argued:

> The liberties of a people never were, nor ever will be, secure when the transactions of their rulers may be concealed from them.

Much more recently, Senator Moynihan concluded his book on the evils of government secrecy with these words:

> A case can be made . . . that secrecy is for losers, for people who don't know how important information really is. The Soviet Union realized this too late. Openness is now a singular, and singularly American, advantage. We put it in peril by poking along in the mode of an age now past.

We would do well to heed both the words of Patrick Henry and Senator Patrick Moynihan. We would do well, by such heeding of these words, to avoid the peril of excessive secrecy and its consequences, including the consequence of designating the United States of America as losers. We now have the opportunity to avoid that fate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I thank my friend, the Senator from Florida, for a very informed statement.

To restate what we said to Senator WYDEN, I appreciate the experience that led our colleagues from both parties to offer this amendment. I know I speak for Senator COLLINS in saying, first, we want to look at the amendment in more detail; second, we want to work to see if we can come up with some way to accommodate your concerns that is agreeable to all involved.

I ask unanimous consent that this amendment be set aside to allow us time to do the work we are about to do.

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

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. COLLINS. Mr. President, it is my understanding that the senior Senator from Maine, Senator SNOWE, is on her way to the floor to speak to the amendment temporarily laid aside.

Before the Senator from Florida leaves the floor, I want to thank him for all the work he has done in this area. The Senator recently spent about an hour with me, sharing some of his experiences as chairman of the Senate Intelligence Committee. He has a great deal of knowledge and expertise, and I very much appreciated his taking the time to give me the benefit of his thoughts on intelligence reform. I am also the proud owner of his book, which is on my bedside table right now and is very appropriate reading as we do this debate. I thank him for his contributions. Like Senator LIEBERMAN, I look forward to working with him, Senator WYDEN, Senator SNOWE, Senator LOTT, on the amendment they have proposed.

Mr. LIEBERMAN. Mr. President, I want to tell Senator GRAHAM that Senator COLLINS indicated to me she does have your book on her bedside table and she finds it compelling. She does not use it to induce sleep. I want to reassure him of that. I find it compelling as well. I join her in thanking the Senator.

You two were way out front in recommending quite a while ago some of the reforms that are contained in our committee's proposal. I hope the Senator knows his work cleared a path and informed the work that the committee did. I thank him for that.

AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I send an amendment to the desk on behalf of myself, Senator CARPER, and Senator LIEBERMAN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Maine [Ms. COLLINS] for herself, Mr. CARPER, and Mr. LIEBERMAN, proposes an amendment numbered 3705.

Ms. COLLINS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Ms. COLLINS. Mr. President, I will not debate this amendment tonight. I wanted to alert our colleagues that this amendment represents the work of the Governmental Affairs Committee to reform and improve and strengthen the formula for the allocation of Homeland Security grant moneys. Our committee has held several hearings over the last 2 years on this issue. This legislation reflects the result of those hearings. It also parallels the recommendations of the 9/11 Commission,

that the formula needs to be revised so that it is more of a threat-based formula.

We worked very hard to come up with a compromise on the committee. We maintained the minimum that each State would get to ensure that every State can respond to its preparedness needs. But we also rewrote the formula in recognition of the fact that some areas of our country, some States, are indeed high-threat areas.

This legislation represents a careful balance that reflects the membership of our committee, which includes both large-State Senators, such as Senator LEVIN of Michigan, and small-State Senators, such as Senator CARPER of Delaware. Senator LEVIN, in particular, I recognize for his very hard work on revising the formula. As I said—and I see members of the leadership on the floor—we will not debate this at length tonight. I did want to send the amendment to the desk.

Mr. LIEBERMAN. Mr. President, I am prepared to join with Senator COLLINS and Senator CARPER in introducing this amendment, and Senator CARPER played a very active role on the committee, along with Senators COLLINS, LEVIN, and other members in devising this very balanced approach to this controversial question of the Homeland Security grant formula. It does reflect the reality of the current terrorist threat, that there are some places that are a higher probability because they contain more potential targets, or because they are just big, prominent cities. But the fact is, when you are dealing with an enemy—and we have seen this around the world—that will strike at the most vulnerable, undefended targets, not caring about consequences to human life, whoever it is—children in schools, buses, trains, families, et cetera—in some sense, every American is endangered and every community is endangered. Therefore, every State deserves some proportion of these Homeland Security grants.

That balance has been struck very well, I think, in this amendment, which is the bill our committee reported out earlier. So I look forward to debating this and hopefully passing it with strong support in the coming days.

I want to say two more things before I yield the floor. First, we now have, I believe, three amendments that have been filed this afternoon. This is good news. There will be a lot of amendments on this bill, and I am sure we will be on the bill for a considerable number of days. One of our colleagues said we might be on this for weeks or months. I prefer to speak in terms of days or hours, as Senator REID prefers. But it is good we have these three amendments offered and hopefully we will go to a vote on one or maybe two of them tomorrow and begin to move forward on this proposal. That is good news.

Secondly, I am delighted to ask unanimous consent to add Senator DURBIN of Illinois as a cosponsor to the underlying bill.

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

Mr. LIEBERMAN. Mr. President, Senator DURBIN is a member of the Governmental Affairs Committee. He made some very significant contributions to this bill, which we will discuss in more detail during the debate on information technology systems of our Government when it comes to dealing with national security intelligence and the board that the bill creates to guarantee while we are improving the security of our people in an age of terrorism that their liberty continues to be protected as well.

I am grateful Senator DURBIN has joined us as a cosponsor. I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, we are not in a quorum call, are we?

The PRESIDING OFFICER. We are not.

ORDERS FOR TUESDAY, SEPTEMBER 28, 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m., Tuesday, September 28. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate resume consideration of S. 2845, the intelligence reform bill. I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

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

PROGRAM

Mr. MCCONNELL. Mr. President, for the information of all Senators, tomorrow, following morning business, the Senate will resume consideration of the intelligence reform bill. I would like to say to Chairman COLLINS and Ranking Member LIEBERMAN, I think they had a good debate today and have gotten a good start, and we will continue the amending process tomorrow. The chairman and ranking member will be here to work through any amendments, and we hope to have them begin to be offered tomorrow. We encourage all Senators to contact the bill managers as early as possible and see if we can move forward on this very important legislation which the majority leader and the Democratic leader wish us to finish before we go home for the elections.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator SNOWE or any other remarks of the chairman of the committee.

Mr. REID. I ask that be amended to the chairman and ranking member.

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

Mr. MCCONNELL. I yield the floor.

MORNING BUSINESS

CUMBERLAND VALLEY NATIONAL BANK

Mr. MCCONNELL. Mr. President, I rise today to recognize the Cumberland Valley National Bank on its one hundredth anniversary as a premiere financial institution in the heart of southeastern Kentucky.

On October 1, 1904, the East Bernstadt Banking Company, as it was known then, opened its doors with capital stock of $15,000. Within 8 years their capital stock had jumped to $25,000 and they underwent their first name change, to the First National Bank. This was just the beginning of several expansions and name changes.

In spite of the closing of major coal mining operations in East Bernstadt, the First National Bank remained quite successful and moved from East Bernstadt to the Catching Building in London, becoming, ironically, the Second National Bank of London. In the years that followed, their capital stock continued to rise. By 1951, the bank reached a milestone with $100,000 in capital stock. In 1959, the Second National Bank opened its first branch location, the North London Branch and added a third location in 1974. Because it was able to establish itself as one of the premiere banking institutions in Laurel County, the bank decided to change its name again, this time to its current name the Cumberland Valley National Bank.

Today, the Cumberland Valley National Bank has twenty locations to serve the people of Laurel County. While the bank has changed its name several times over the last 100 years, it has never changed the impeccable service it provides its customers. This is due in large part to the hundreds of former and current employees who have strived to make this bank a cornerstone of Laurel County.

Today I ask my colleagues to join me in honoring the Cumberland Valley National Bank, the largest locally owned bank in southeastern Kentucky, for its one hundred years of business. I wish them another one hundred years of success.

SECURITY FOR JUSTICES—S. 2742

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of S. 2742, which is a short but important piece of legislation that Senator HATCH

and I have cosponsored at the request of the Supreme Court. This legislation would renew authority to provide security for the Justices when they leave the Supreme Court. Recent reports of the assault of Justice Souter when he was outside of the Supreme Court highlight the importance of security for Justices. If no congressional action is taken, the authority of Supreme Court police to protect Justices off court grounds will expire at the end of this year.

Another provision in this legislation allows the Supreme Court to accept gifts ''pertaining to the history of the Supreme Court of the United States or its justices.'' The administrative offices of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court authority to accept gifts but it would narrow the types of gifts that can be received to historical items. I think this provision strikes the proper balance.

Finally, this legislation also would provide an additional venue for the prosecution of offenses that occur on the Supreme Court grounds. Currently, the DC Superior Court is the only place of proper venue despite the uniquely Federal interest at stake. This legislation would allow suit to be brought in United States District Court in the District of Columbia.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 7, 2000 in San Diego, CA, Paul Cain, a 28-year-old member of the Nazi Low Riders, was sentenced to 15 years to life in prison for the beating and strangulation of a gay man in 1995.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

Mrs. CLINTON. Mr. President, I rise today in recognition of the DREAM Vigil, a national grassroots effort to raise support for the DREAM Act. Many New Yorkers participated in a 5-day fast during the National Week of Action for Immigrants' Rights. They did this in part to show support for the DREAM Act, an important piece of legislation for immigration reform. In a show of solidarity, similar fasts have been organized in cities and States across the Nation over the past 2 weeks. The DREAM Vigil culminated last week and I commend all of the State and local organizations, community members, local leaders and students in New York and across the Nation that have participated in this effort.

Recently, I stood before you and spoke about the importance of this month's celebration of Hispanic heritage. Today, Hispanic Americans are flourishing in States across the country and I am proud to represent the most diverse Hispanic community in our Nation. Yet, I worry that far too many immigrant children and families continue to suffer under America's broken immigration system.

This year more than 65,000 immigrant students graduated from U.S. high schools only to see the doors of opportunity closed to them, through no fault of their own. The DREAM Act, which I proudly cosponsor, will help expand opportunities for our Nation's immigrant students by placing them on a path to college and U.S. citizenship. Yet Members of Congress and this administration continue to put this important legislation on the back burner.

Over the last few years, immigrant students and advocates across the country have engaged in an enormous amount of activity in support of the DREAM Act. They have met with members of Congress, held hundreds of rallies, gathered more than 100,000 petitions, made tens of thousands of phone calls to congressional offices, and more. Just last April, over 300 students and advocates came to Washington, DC, from all across the Nation to express their support for the DREAM Act and to urge President Bush to support this legislation. Nearly half of these students came from New York, and I was proud to have had the opportunity to meet some of them.

It is important to understand that these students were brought to this Nation as young children and have been educated in our public school system. They have stayed in school and stayed out of trouble and many are valedictorians, honor students, student leaders, and high achievers. Yet, because of their immigration status they are often effectively barred from pursuing a post-secondary education and the American dream.

Over the past several years I have met many of these students. They have also written to me to share their stories of why this legislation is important to them. In July, I heard from Alejandra, who came to Washington as part of a group of advocates for immigration reform. Alejandra also participated in the 5-day fast as part of the National Week of Action in New York. She graduated in June as the valedictorian of Renaissance Charter School in Jackson Heights, Queens. Alejandra was a member of the National Honor Society; a sixth grade tutor; a teacher's assistant; an intern with the Global Kids, Human Rights Activist Project; and one of 400 students and staff across the Nation who were selected to participate in the National Young Leaders Conference in Washington, DC, last year. Yet. Alejandra is one of many students across New York whose high school graduation was bittersweet.

Alejandra has done everything right. However, she still struggles to pay for college, a struggle that is not based on her merit, but rather on her immigration status. Despite all of her hard work, exemplary academic performance, and outstanding record of community service, Alejandra remains ineligible for Federal grants, loans or work-study jobs to help her afford college. Our broken immigration system is trying to force her out of our education system and the American dream. But, Alejandra is determined. She is persistent, and she refuses to give up. In spite of her immigration status and unlike other students in her precarious situation, Alejandra has found a way to pursue higher education. She currently attends the City University of new York. But still, the DREAM Act remains her only real hope of achieving that one thing that all Americans yearn and work hard for—the opportunity to fully contribute to the land we call home—the American dream. Without the DREAM Act, her years of hard work and the education that she has struggled so hard to obtain will be meaningless and wasted since Alejandra will never be able to put her skills to work legally.It is a wasted investment for her and a wasted investment for the American people.

I find it deeply troubling that we allow this to happen in today's 21st century economy, where a post-secondary education is quickly becoming the minimum requirement for higher-earning jobs. Failure to provide immigrant students such as Alejandra and all students with adequate access to post-secondary education will have devastating economic and social consequences for these individuals and our entire Nation.

That is why the DREAM Act is so critical. It ensures that the promise of the American dream becomes a reality for our Nation's immigrants—many of whom are Hispanic Americans—and every American. Results of two national public opinion polls demonstrate strong voter support for the concept embodied in the DREAM Act. The DREAM Act deserves our Nation's full support and I urge President Bush and Congress to pass this important legislation this year.

ADDITIONAL STATEMENTS

TRIBUTE TO MRS. BEATRICE T. JONES

• Mr. SESSIONS. Mr. President, today I rise to recognize the accomplishments of Mrs. Beatrice T. Jones, a dedicated public servant who has given 22 years of her life to our country. Mrs. Jones began her civil service career on May 30, 1982 with the Department of the Army. Originally from the Roanoke, VA, area, Mrs. Jones is the classic success story. Steadily climbing the

ladder, Mrs. Jones advanced from a Secretary position to become the Chief of Protocol for the U.S. Army Military District of Washington. Over the years, she gained a reputation among her peers and Army leadership as the resident expert in military protocol and etiquette.

Mrs. Jones was directly responsible for the success of countless ceremonial events such as the Army's notable Twilight Tattoo, Spirit of America, holiday concerts, numerous retirements and in a special tribute to honor America's fallen heroes of September 11. Many of these events gave great solace to our national audience. She was the ever present figure behind the scenes ensuring that all went well. Her involvement and unique sense of what the United States Army meant to her countrymen allowed Mrs. Jones to chart these events so that everyone in attendance was enthused with a sense of pride in our senior service.

I mention her today because I believe it is important to recognize the type of steadfast trooper we have in Mrs. Jones; she was always there, working the late hours before the event and hustling during the event. She was the person concerned about the smallest detail so that the pride of the Army would be at the maximum level. Mrs. Jones was likely so caught up in these events to ensure success that she had little time to contemplate the scale and dignity of the grand ceremonies she brought about. I was pleased to note that the Army recognized that time had come to give Mrs. Jones her own ceremony. On July 16 of this year, Mrs. Jones was awarded the Superior Civilian Service Award by Major General Jackman, Commanding General, U.S. Army Military District of Washington, for her exceptional contributions to the Directorate of Ceremonies and Special Events. This medal reflects her superb service and the gratitude of a long gray line of Army Protocol Specialists whose lives and careers she has touched, and many of whom have become successful in their own right as a result of carrying with them the lessons learned under Mrs. Jones.

I am please to report that her future plans include spending quality time with her grandchildren and family. These personal ventures have been long put aside for the benefit of our Army, and for the record, let it be noted that Mrs. Jones's countrymen extend their gratitude for her loyalty and dedicated service to her country.●

MESSAGE FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1057. An act to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

H.R. 2028. An act to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance.

H.R. 3428. An act to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 475. Concurrent resolution encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games.

H. Con. Res. 486. Concurrent resolution recognizing and honoring military unit family support volunteers for their dedicated service to the United States, the Armed Forces, and members of the Armed Forces and their families.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 486. Concurrent resolution recognizing and honoring military unit family support volunteers for their dedicated service to the United States, the Armed Forces, and members of the Armed Forces and their families; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3428. An act to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2485. A bill to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes (Rept. No. 108–358).

By Ms. COLLINS, from the Special Committee on Aging:

Report to accompany S. 2840, An original bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes (Rept. No. 108-359).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAPO (for himself, Mr. INHOFE, and Mr. JEFFORDS):

S. 2847. A bill to reauthorize the Water Resources Act of 1984; to the Committee on Environment and Public Works.

By Mr. ENSIGN (for himself and Mr. REID):

S. 2848. A bill to transfer administrative jurisdiction over certain land in Clark County, Nevada, from the Secretary of the Interior to the Secretary of Veterans Affairs; to the Committee on Energy and Natural Resources.

By Mr. HAGEL:

S. 2849. A bill to provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2850. A bill to authorize the President to posthumously award a gold medal on behalf of the Congress to Fred McFeely Rogers, in recognition of his lasting contributions to the application of creativity and imagination in the early education of our Nation's children, and to his lasting example to the Nation and the world of what it means to be a good neighbor; to the Committee on Banking, Housing, and Urban Affairs.

ADDITIONAL COSPONSORS

S. 847

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 847, supra.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S . 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1368

At the request of Mr. FRIST, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1890

At the request of Mr. ENZI, the names of the Senator from Mississippi (Mr.

COCHRAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 2003

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2003, a bill to amend the Public Health Service Act to promote higher quality health care and better health by strengthening health information, information infrastructure, and the use of health information by providers and patients.

S. 2298

At the request of Mr. BREAUX, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2298, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 2367

At the request of Mr. REID, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2367, a bill to amend chapters 83 and 84 of title 5, United States Code, to provide Federal retirement benefits for United States citizen employees of Air America, Inc., its subsidiary Air Asia Company Limited, or the Pacific Division of Southern Air Transport, Inc.

S. 2425

At the request of Mr. BYRD, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2614

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2614, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 2722

At the request of Mr. DURBIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2722, a bill to maintain and expand the steel import licensing and monitoring program.

S. 2782

At the request of Mr. SUNUNU, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2782, a bill to reform social security by establishing a Personal Social Security Savings Program.

S. 2808

At the request of Mr. BYRD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2808, a bill to amend title 5, United States Code, to make the date of the signing of the United States Constitution a legal public holiday, and for other purposes.

S. 2815

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2815, a bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

S. 2845

At the request of Mr. LIEBERMAN, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 2845, supra.

At the request of Ms. COLLINS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2845, supra.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from New York (Mrs. CLINTON), the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. CARPER) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 408

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

S. RES. 420

At the request of Mr. PRYOR, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. Res. 420, a resolution recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

S. RES. 424

At the request of Mr. CRAIG, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 424, a resolution designating October 2004 as ''Protecting Older Americans From Fraud Month''.

S. RES. 429

At the request of Mr. DURBIN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from California (Mrs. FEINSTEIN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 429, a resolution establishing a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

S. RES. 434

At the request of Mr. PRYOR, his name was added as a cosponsor of S. Res. 434, a resolution recognizing and supporting all efforts to promote greater civic awareness among the people of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 2849. A bill to provide certain enhancements to the Montgomery G.I. Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes; to the Committee on Veterans' Affairs.

Mr. HAGEL. Mr. President, I rise today to introduce the G.I. Bill Enhancement Act of 2004. My legislation would waive the Montgomery G.I. bill program's $1,200 enrollment fee for active duty members of our Nation's military.

This legislation covers any member of the United States military, including Reserve and National Guard members, serving on active duty during the period after President Bush's November 2001 Executive order that placed the military on a wartime footing. This legislation would: waive the G.I. bill enrollment fee until President Bush's November 2001 Executive order is rescinded; allow all servicemen and women to opt into the G.I. bill with no penalty or enrollment fee; and reimburse those servicemen and women covered by this bill who have already paid the $1,200 enrollment fee prior to the enactment of this legislation.

The current Montgomery G.I. bill is tailored to serve members of our military in a time of peace. Upon enlistment, recruits are given the option of enrolling in the G.I. bill. If they choose to participate, they are charged a $1,200 enrollment fee which is deducted from their monthly pay over 12 months. However, we are now in a time of war and the demands on our service members and their families have been transformed and increased. To that end, changes must be made to the G.I. bill to ensure that it continues to provide realistic and relevant educational opportunities to those who are defending our country.

This is an issue of fundamental fairness. The men and women serving our country in wartime should not have to choose between the long-term benefits of the G.I. bill and the short-term demands of their paycheck. The G.I. bill is one of the great legacies of military service to our country. Men and women sacrificing for their country in a time of war need to be assured that access to higher education is in their future. Congress must do all it can to ensure that education options for our veterans are accessible and real.

The year 2004 marks the 60th anniversary of the Servicemen's Readjustment Act of 1944, better known as the G.I. bill. This bill has long been recognized as one of the most important congressional acts of post World War II America. The G.I. bill ensured that all who served their Nation would not be penalized as a result of their time away from their careers and communities in service to their country. The G.I. bill helped members of our ''greatest generation'' upon their return home by providing them with the educational tools necessary to pursue the opportunities enjoyed by all Americans.

Over the last 60 years, the Federal Government has invested billions of dollars in education benefits for our Nation's veterans. Over 17.6 million men and women have benefitted from the G.I. bill, resulting in a workforce that transformed American society. The bill's far-reaching impact can be seen here today, as Members of this body, including this Senator, have prospered as a result of the benefits of the G.I. bill.

Every American should be proud of how we have responded to the challenges of terrorism following September 11, 2001. We owe much to the men and women who have fought professionally and bravely in Afghanistan and Iraq and who have kept guard around the world. This bill recognizes these sacrifices. I hope that my Senate colleagues will give serious consideration to this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2849

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

SECTION 1. EXEMPTION FROM PAYMENT OF INDIVIDUAL CONTRIBUTIONS UNDER MONTGOMERY GI BILL OF INDIVIDUALS WHO SERVE AS ACTIVE DUTY MEMBERS OF THE ARMED FORCES UNDER EXECUTIVE ORDER 13235.

(a) ACTIVE DUTY PROGRAM.—Notwithstanding section 3011(b) of title 38, United States Code, no reduction in basic pay otherwise required by such section shall be made in the case of a covered member of the Armed Forces.

(b) SELECTED RESERVE PROGRAM.—Notwithstanding section 3012(c) of such title, no reduction in basic pay otherwise required by such section shall be made in the case of a covered member of the Armed Forces.

(c) TERMINATION OF ON-GOING REDUCTIONS IN BASIC PAY.—In the case of a covered member of the Armed Forces who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces before the date of the enactment of this Act and whose basic pay would, but for subsection (a) or (b) of this section, be subject to reduction under section 3011(b) or 3012(c) of such title for any month beginning on or after that date, the reduction of basic pay of such covered member of the Armed Forces under such section 3011(b) or 3012(c), as applicable, shall cease commencing with the first month beginning on or after that date.

(d) REFUND OF CONTRIBUTIONS.—(1) In the case of any covered member of the Armed Forces whose basic pay was reduced under section 3011(b) or 3012(c) of such title for any month beginning before the date of the enactment of this Act, the Secretary concerned shall pay to such covered member of the Armed Forces an amount equal to the aggregate amount of reductions of basic pay of such member of the Armed Forces under such section 3011(b) or 3012(c), as applicable, as of that date.

(2) Any amount paid to a covered member of the Armed Forces under paragraph (1) shall not be included in gross income under the Internal Revenue Code of 1986.

(3) Amounts for payments under paragraph (1) shall be derived from amounts appropriated or otherwise made available to the Secretary concerned for military personnel in chapter 1 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1209).

(4) In this subsection, the term ''Secretary concerned'' means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force; and

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard.

(e) COVERED MEMBER OF THE ARMED FORCES DEFINED.—In this section, the term ''covered member of the Armed Forces'' means any individual who serves on active duty as a member of the Armed Forces during the period—

(1) beginning on November 16, 2001, the date of Executive Order 13235, relating to National Emergency Construction Authority; and

(2) ending on the termination date of the Executive order referred to in paragraph (1).

SEC. 2. OPPORTUNITY FOR INDIVIDUALS WHO SERVE AS ACTIVE DUTY MEMBERS OF THE ARMED FORCES UNDER EXECUTIVE ORDER 13235 TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL.

Section 3018 of title 38, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsection (d) and (e), respectively;

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

''(c)(1) Notwithstanding any other provision of this chapter, during the one-year period beginning on the date of the enactment of this subsection, an individual who—

''(A) serves on active duty as a member of the Armed Forces during the period beginning on November 16, 2001, and ending on the termination date of Executive Order 13235, relating to National Emergency Construction Authority; and

''(B) has served continuously on active duty without a break in service following the date the individual first becomes a member or first enters on active duty as a member of the Armed Forces,

shall have the opportunity, on such form as the Secretary of Defense shall prescribe, to withdraw an election under section 3011(c)(1) or 3012(d)(1) of this title not to receive education assistance under this chapter.

''(2) An individual described paragraph (1) who made an election under section 3011(c)(1) or 3012(d)(1) of this title and who—

''(A) while serving on active duty during the one-year period beginning on the date of the enactment of this subsection makes a withdrawal of such election;

''(B) continues to serve the period of service which such individual was obligated to serve;

''(C) serves the obligated period of service described in subparagraph (B) or before completing such obligated period of service is described by subsection (b)(3)(B); and

''(D) meets the requirements set forth in paragraphs (4) and (5) of subsection (b),

is entitled to basic educational assistance under this chapter.''; and

(3) in subsection (e), as so redesignated, by inserting ''or (c)(2)(A)'' after ''(b)(1)''.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2850. A bill to authorize the President to posthumously award a gold medal on behalf of the Congress to Fred McFeely Rogers, in recognition of his lasting contributions to the application of creativity and imagination in the early education of our Nation's children, and to his lasting example to the Nation and the world of what it means to be a good neighbor; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SANTORUM. Mr. President, I rise today to recognize the accomplishments of Mr. Fred McFeely Rogers and to introduce, along with Senator SPECTER, a measure posthumously award him a Congressional Gold Medal.

People of all ages across the country were saddened to learn of Fred Rogers' death last year. Better known to generations of Americans simply as Mr. Rogers, he devoted his life to fostering children's imaginations and reinforcing virtues that help serve the greater good of society.

A student of child development at the University of Pittsburgh and an ordained Presbyterian minister, Fred Rogers produced various local and national television programs for the enjoyment of America's youth. Most notable among his productions were ''The Children's Corner'' and ''Mr. Rogers' Neighborhood,'' programs that showcased Rogers' talent as both producer and actor. For his work on programs such as these, Fred Rogers was awarded numerous professional accolades that included four Emmy Awards, ''Lifetime Achievement'' Awards from the National Academy of Television Arts and Sciences and the TV Critics Association, and two George Foster Peabody Awards. In 1999, he was inducted into the Television Hall of Fame.

Beyond his professional accomplishments, Fred Rogers was an ambassador of kindness and compassion to generations of American children. He infused

laughter and life lessons into every episode of his programs. Time spent in ''Mr. Rogers' Neighborhood'' taught children to share, care for others, and express their emotions during times of grief and trouble. Above all, he taught children how to be a good neighbor to those in their communities.

I commend the work of Fred McFeely Rogers, and I am privileged to introduce this measure on behalf of everyone who had the opportunity to watch and learn from Mr. Rogers—we were truly blessed to have such a compassionate and caring figure broadcast into our homes on a daily basis. He well be greatly missed, but his exemplary life of tireless service will not be forgotten.

AMENDMENTS SUBMITTED & PROPOSED

SA 3702. Mr. McCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3703. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3704. Mr. WYDEN (for himself, Mr. LOTT, Mr. GRAHAM of Florida, Ms. SNOWE, and Mr. CORNYN) proposed an amendment to the bill S. 2845, supra.

SA 3705. Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3706. Mr. SPECTER (for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3707. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3708. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3702. Mr. McCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE —TRANSPORTATION SECURITY

SEC. 01. DEFINITIONS.

In this title, the terms ''air carrier'', ''air transportation'', ''aircraft'', ''airport'', ''cargo'', ''foreign air carrier'', and ''intrastate air transportation'' have the meanings given such terms in section 40102 of title 49, United States Code.

SEC. 02. NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.

(a) REQUIREMENT FOR STRATEGY.—

(1) RESPONSIBILITIES OF SECRETARY OF HOMELAND SECURITY—.The Secretary of Homeland Security shall—

(A) develop and implement a National Strategy for Transportation Security; and

(B) revise such strategy whenever necessary to improve or to maintain the currency of the strategy or whenever the Secretary otherwise considers it appropriate to do so.

(2) CONSULTATION WITH SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall consult with the Secretary of Transportation in developing and revising the National Strategy for Transportation Security under this section.

(b) CONTENT.—The National Strategy for Transportation Security shall include the following matters:

(1) An identification and evaluation of the transportation assets within the United States that, in the interests of national security, must be protected from attack or disruption by terrorist or other hostile forces, including aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, urban mass transit, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

(2) The development of the risk-based priorities, and realistic deadlines, for addressing security needs associated with those assets.

(3) The most practical and cost-effective means of defending those assets against threats to their security.

(4) A forward-looking strategic plan that assigns transportation security roles and missions to departments and agencies of the Federal Government (including the Armed Forces), State governments (including the Army National Guard and Air National Guard), local governments, and public utilities, and establishes mechanisms for encouraging private sector cooperation and participation in the implementation of such plan.

(5) A comprehensive delineation of response and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States.

(6) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital assets.

(7) A budget and recommendations for appropriate levels and sources of funding to meet the objectives set forth in the strategy.

(c) SUBMISSIONS TO CONGRESS.—

(1) THE NATIONAL STRATEGY.—

(A) INITIAL STRATEGY.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security developed under this section to Congress not later than April 1, 2005.

(B) SUBSEQUENT VERSIONS.—After 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including any revisions, to Congress not less frequently than April 1 of each evennumbered year.

(2) PERIODIC PROGRESS REPORT.—

(A) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to Congress an assessment of the progress made on implementing the National Strategy for Transportation Security.

(B) CONTENT.—Each progress report under this paragraph shall include, at a minimum, the following matters:

(i) An assessment of the adequacy of the resources committed to meeting the objectives of the National Strategy for Transportation Security.

(ii) Any recommendations for improving and implementing that strategy that the Secretary, in consultation with the Secretary of Transportation, considers appropriate.

(3) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security that involves information that is properly classified under criteria established by Executive order shall be submitted to Congress separately in classified form.

(d) PRIORITY STATUS.—

(1) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(2) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(A) the current National Maritime Transportation Security Plan under section 70103 of title 46, United States Code;

(B) the report required by section 44938 of title 49, United States Code; and

(C) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

SEC. 03. USE OF WATCHLISTS FOR PASSENGER AIR TRANSPORTATION SCREENING.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Transportation Security Administration, as soon as practicable after the date of the enactment of this Act but in no event later than 180 days after that date, shall—

(1) implement a procedure under which the Transportation Security Administration compares information about passengers who are to be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation for flights and flight segments originating in the United States with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(2) use the information obtained by comparing the passenger information with the information in the database to prevent known or suspected terrorists and their associates from boarding such flights or flight segments or to subject them to specific additional security scrutiny, through the use of ''no fly'' and ''automatic selectee'' lists or other means.

(b) AIR CARRIER COOPERATION.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall by order require air carriers to provide the passenger information necessary to implement the procedure required by subsection (a).

(c) MAINTAINING THE ACCURACY AND INTEGRITY OF THE ''NO FLY'' AND ''AUTOMATIC SELECTEE'' LISTS.—

(1) WATCHLIST DATABASE.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall design guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the watchlist database described in subsection (a) (1) that are designed to ensure the accuracy and integrity of the database.

(2) ACCURACY OF ENTRIES.—In developing the ''no fly'' and ''automatic selectee'' lists under sub-section (a) (2), the Secretary of Homeland Security shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger screening process. The Secretary shall also establish a process to provide individuals whose names are confused with, or similar to, names in the database with a means of demonstrating that they are not a person named in the database.

SEC. 04. ENHANCED PASSENGER AND CARGO SCREENING.

(a) AIRCRAFT PASSENGER SCREENING AT CHECKPOINTS.—

(1) DETECTION OF EXPLOSIVES.—

(A) IMPROVEMENT OF CAPABILITIES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Homeland Security shall take such action as is necessary to improve the capabilities at passenger screening checkpoints, especially at commercial airports, to detect explosives carried aboard aircraft by passengers or placed aboard aircraft by passengers.

(B) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Secretary shall take immediate measures to require Transportation Security Administration or other screeners to screen for explosives any individual identified for additional screening before that individual may board an aircraft.

(2) IMPLEMENTATION REPORT.—

(A) REQUIREMENT FOR REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transmit to the Senate and the House of Representatives a report on how the Secretary intends to achieve the objectives of the actions required under paragraph (1). The report shall include an implementation schedule.

(B) CLASSIFIED INFORMATION.—The Secretary may submit separately in classified form any information in the report under subparagraph (A) that involves information that is properly classified under criteria established by Executive order.

(b) ACCELERATION OF RESEARCH AND DEVELOPMENT ON, AND DEPLOYMENT OF, DETECTION OF EXPLOSIVES.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall take such action as may be necessary to accelerate research and development and deployment of technology for screening aircraft passengers for explosives during or before the aircraft boarding process.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for each of fiscal years 2005 through 2009.

(c) IMPROVEMENT OF SCREENER JOB PERFORMANCE.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security shall take such action as may be necessary to improve the job performance of airport screening personnel.

(2) HUMAN FACTORS STUDY.—In carrying out this subsection, the Secretary shall, not later than 180 days after the date of the enactment of this Act, conduct a human factors study in order better to understand problems in screener performance and to set attainable objectives for individual screeners and screening checkpoints.

(d) CHECKED BAGGAGE AND CARGO.—

(1) IN-LINE BAGGAGE SCREENING.—The Secretary of Homeland Security shall take such action as may be necessary to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

(2) CARGO SECURITY.—The Secretary shall take such action as may be necessary to ensure that the Transportation Security Administration in creases and improves its efforts to screen potentially dangerous cargo.

(e) BLAST-RESISTANT CARGO AND BAGGAGE CONTAINERS.—

(1) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation—

(A) shall assess the feasibility of requiring the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device; and

(B) may require their use on some or all flights on aircraft for which such containers are available.

(2) PILOT PROGRAM.—Before requiring the use of such containers on any such flights, the Secretary of Homeland Security shall conduct a pilot program to evaluate the use of currently available blast-resistant containers for cargo and baggage on passenger aircraft. In conducting the pilot program the Secretary—

(A) shall test the feasibility of using the containers by deploying them on participating air carrier flights; but

(B) may not disclose to the public the number of blast-resistant containers being used in the program or publicly identify the flights on which the containers are used.

(3) ASSISTANCE FOR PARTICIPATION IN PILOT PROGRAM.—

(A) IN GENERAL.—As part of the pilot program, the Secretary may provide assistance to air carriers to volunteer to test the use of blast-resistant containers for cargo and baggage on passenger aircraft.

(B) APPLICATIONS.—To volunteer to participate in the incentive program, an air carrier shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires.

(C) TYPES OF ASSISTANCE.—Assistance provided by the Secretary to air carriers that volunteer to participate in the pilot program may include the use of blast-resistant containers and financial assistance to cover increased costs to the carriers associated with the use and maintenance of the containers, including increased fuel costs.

(4) TECHNOLOGICAL IMPROVEMENTS.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation, shall—

(A) support efforts to further the development and improvement of blast-resistant containers for potential use on aircraft, including designs that—

(i) will work on a variety of aircraft, including narrow body aircraft; and

(ii) minimize the weight of such containers without compromising their effectiveness; and

(B) explore alternative technologies for minimizing the potential effects of detonation of an explosive device on cargo and passenger aircraft.

(5) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the pilot program and on progress made in developing improved containers and equivalent technologies. The report may be submitted in classified and redacted formats.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out this section. Such sums shall remain available until expended.

(f) COST-SHARING.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with representatives of air carriers, airport operators, and other interested parties, shall submit to the Senate and the House of Representatives—

(1) a proposed formula for cost-sharing, for the advanced in-line baggage screening equipment required by this title, between and among the Federal Government, State and local governments, and the private sector that reflects proportionate national security benefits and private sector benefits for such enhancement; and

(2) recommendations, including recommended legislation, for an equitable, feasible, and expeditious system for defraying the costs of the advanced in-line baggage screening equipment required by this title, which may be based on the formula proposed under paragraph (1).

SEC. 05. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA 3703. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. NATIONAL INTELLIGENCE COORDINATOR.

(a) NATIONAL INTELLIGENCE COORDINATOR.—There is a National Intelligence Coordinator who shall be appointed by the President.

(b) RESPONSIBILITY.—Subject to the direction and control of the President, the National Intelligence Coordinator shall have the responsibility for coordinating the performance of all intelligence and intelligence-related activities of the United States Government, whether such activities are foreign or domestic.

(c) AVAILABILITY OF FUNDS.—Funds shall be available to the National Intelligence Coordinator for the performance of the responsibility of the Coordinator under subsection (b) in the manner provided by law or as directed by the President.

(d) MEMBERSHIP ON NATIONAL SECURITY COUNCIL.—The National Intelligence Coordinator shall be a member of the National Security Council.

(e) SUPPORT.—(1) Any official, office, program, project, or activity of the Central Intelligence Agency as of the date of the enactment of this Act that supports the Director of Central Intelligence in the performance of responsibilities and authorities as the head of the intelligence community shall, after that date, support the National Intelligence Coordination in the performance of the responsibility of the Coordinator under subsection (b).

(2) Any powers and authorities of the Director of Central Intelligence under statute, Executive order, regulation, or otherwise as of the date of the enactment of this Act that relate to the performance by the Director of responsibilities and authorities as the head of the intelligence community shall, after that date, have no further force and effect.

(f) ACCOUNTABILITY.—(1) The National Intelligence Coordinator shall report directly to the President regarding the performance of the responsibility of the Coordinator under subsection (b), and shall be accountable to the President regarding the performance of such responsibility.

(2) Except as otherwise provided by law, the National Intelligence Coordinator shall not be accountable to Congress regarding the performance of the responsibility of the Coordinator.

SA 3704. Mr. WYDEN (for himself, Mr. LOTT, Mr. GRAHAM of Florida, Ms. SNOWE, and Mr. CORNYN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end of title II, add the following:

Subtitle D—Classified Information

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Independent National Security Classification Board Act of 2004''.

SEC. 232. PURPOSE.

The purpose of this subtitle is to establish in the executive branch an Independent National Security Classification Board—

(1) to review the standards and procedures used in the classification system for national security information;

(2) to propose and submit to Congress and the President for comment new standards and procedures to be used in the classification system for such information;

(3) to establish the new standards and procedures after Congress and the President have had the opportunity to comment; and

(4) to review, and make recommendations with respect to, classifications of current and new information made under the applicable classification system.

SEC. 233. INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.

(a) ESTABLISHMENT.—The Independent National Security Classification Board (in this subtitle referred to as the ''Board'') is established as an independent agency in the executive branch.

(b) COMPOSITION.—The Board shall be composed of one member appointed by the President, one member jointly recommended by the Majority Leader and the Minority Leader of the Senate and appointed by the President, and one member jointly recommended by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives and appointed by the President, each by and with the advice and consent of the Senate. Each member shall be knowledgeable on classification matters.

(c) TERM OF MEMBERS.—Each member of the Board shall be appointed for a term of 5 years. A member may be reappointed for one additional 5-year term. A member whose term has expired shall continue to serve on the Board until a replacement has been appointed.

(d) VACANCIES.—Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) SEPARATE OFFICE.—The Board shall have its own office for carrying out its activities, and shall not share office space with any element of the intelligence community or with any other department, agency, or element of the United States Government.

(f) CHAIRMAN.—The Board shall select a Chairman from among its members.

(g) MEETINGS.—The Board shall meet at the call of the Chairman.

(h) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(i) AVAILABILITY OF INFORMATION.—The decision-making process of the Board may be classified, but the final decisions of the Board and the reports submitted under this subtitle shall be made available to the public.

(j) INITIAL APPOINTMENTS AND MEETING.—

(1) INITIAL APPOINTMENTS.—Initial appointments of members of the Board shall be made not later than 90 days after the date of the enactment of this Act.

(2) INITIAL MEETING.—The Board shall hold its first meeting not later than 30 days after the date on which all members of the Board have been appointed.

(k) WEBSITE.—The Board shall establish a website not later than 90 days after the date on which all members of the Board have been appointed.

SEC. 234. DUTIES OF BOARD.

(a) REVIEW OF CLASSIFICATION SYSTEM.—

(1) IN GENERAL.—The Board shall conduct a thorough review of the classification system for national security information, including the policy, procedures, and practices of the system. The Board shall recommend reforms of such system to ensure—

(A) the protection of the national security of the United States;

(B) the sharing of information among departments, agencies, and element of the United States Government; and

(C) an open and informed public discussion of national security issues.

(2) SCOPE OF REVIEW.—

(A) CONSULTATION.—The Board shall consult with the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives in determining the scope of its review of the classification system.

(B) REVIEW.—The Board shall submit a report describing the proposed scope of review to the President and the committees of Congress referred to in subparagraph (A) for comment.

(C) REVISIONS.—Not later than 30 days after receiving the report under subparagraph (B)—

(i) the President shall notify the Board in writing of any revisions to such scope of review; and

(ii) each committee of Congress referred to in subparagraph (A) may submit to the Board, in writing, any comments of the committee on the proposed scope of review.

(b) ADOPTION OF NATIONAL SECURITY INFORMATION CLASSIFICATION SYSTEM.—

(1) AUTHORITY.—The Board shall prescribe the classification system for national security information, which shall apply to all departments, agencies, and elements of the United States Government.

(2) FINDINGS AND RECOMMENDATIONS.—The Board shall, in accordance with the scope of review developed under subsection (a)(2), review the classification system for national security information and submit to the President and Congress its findings and recommendations for new procedures and standards to be used in such classification system.

(3) CLASSIFICATION SYSTEM.—Not later than 180 days after the date on which all members of the Board have been confirmed by the Senate, the Board shall adopt a classification system for national security information, incorporating any comments received from the President and considering any comments received from Congress. Upon the adoption of the classification system, the system shall be used for the classification of all national security information.

(c) REVIEW OF CLASSIFICATION DECISIONS.—

(1) IN GENERAL.—The Board shall, upon its own initiative or pursuant to a request under paragraph (3), review any classification decision made by an Executive agency with respect to national security information.

(2) ACCESS.—The Board shall have access to all documents or other materials that are classified on the basis of containing national security information.

(3) REQUESTS FOR REVIEW.—The Board shall review in a timely manner the existing or proposed classification of any document or other material the review of which is requested by—

(A) the head or Inspector General of an Executive agency who is an authorized holder of such document or material; or

(B) the chairman or ranking member of—

(i) the Committee on Armed Services, the Committee on Foreign Relations, or the Select Committee on Intelligence of the Senate; or

(ii) the Committee on Armed Services, the Committee on International Relations, or the Permanent Select Committee on Intelligence of the House of Representatives.

(4) RECOMMENDATIONS.—

(A) IN GENERAL.—The Board may make recommendations to the President regarding decisions to classify all or portions of documents or other material for national security purposes or to declassify all or portions of documents or other material classified for such purposes.

(B) IMPLEMENTATION.—Upon receiving a recommendation from the Board under subparagraph (A), the President shall either—

(i) accept and implement such recommendation; or

(ii) not later than 60 days after receiving the recommendation if the President does not accept and implement such recommendation, transmit in writing to Congress and have posted on the website of the Board a notification in unclassified form of the justification for the President's decision not to implement such recommendation.

(5) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—The Board shall not be required to make documents or materials reviewed under this subsection available to the public under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

(6) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection.

(7) EXECUTIVE AGENCY DEFINED.—In this section, the term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

SEC. 235. POWERS OF BOARD.

(a) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Board may secure directly from any department, agency, or element of the United States Government such information as the Board considers necessary to carry out this subtitle. Upon request of the Chairman of the Board, the head of such department, agency, or element shall furnish such information to the Board.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon request of the Board, the Administrator of General Services shall provide to the Board, on a reimbursable basis, the administrative support necessary for the Board to carry out its duties under this subtitle.

(d) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) GIFTS.—The Board may accept, use, and dispose of gifts or donations of services or property.

SEC. 236. BOARD PERSONNEL MATTERS.

(a) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Members, Independent National Security Classification Board.''.

(b) STAFF.—

(1) IN GENERAL.—The Chairman of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties under this subtitle. The employment of an executive director shall be subject to confirmation by the Board.

(2) COMPENSATION.—The Chairman of the Board may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate

of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any employee of the United States Government may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 237. FUNDING.

Of the amount authorized to be appropriated by section 352, $2,000,000 shall be available for the Board for purposes of this section during fiscal year 2005.

SA 3705. Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE IV—HOMELAND SECURITY GRANTS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Homeland Security Grant Enhancement Act of 2004''.

SEC. 402. DEFINITIONS.

In this title, the following definitions shall apply:

(1) INSULAR AREA.—The term ''insular area'' means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(2) LARGE HIGH-THREAT STATE FUND.—The term ''Large High-Threat State Fund'' means the fund containing amounts authorized to be appropriated for States that elect to receive Federal financial assistance through a per capita share of 38.625 percent of the amount appropriated for the State Homeland Security Grant Program.

(3) LOCAL GOVERNMENT.—The term ''local government'' has the same meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(4) STATE.—The term ''State'' means each of the several States of the United States and the District of Columbia.

(5) STATE HOMELAND SECURITY GRANT PROGRAM.—The term ''State Homeland Security Grant Program'' means the program receiving 75 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program.

(6) THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.—The term ''Threat-Based Homeland Security Grant Program'' means the program authorized under section 6.

(7) URBAN AREA SECURITY INITIATIVE GRANT PROGRAM.—The term ''Urban Area Security Initiative Grant Program'' means the program receiving 25 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program.

SEC. 403. PRESERVATION OF PRE-9/11 GRANT PROGRAMS FOR TRADITIONAL FIRST RESPONDER MISSIONS.

(a) IN GENERAL.—This title shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (b), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

(b) PROGRAMS INCLUDED.—The programs referred to in subsection (a) are the following:

(1) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(2) The Emergency Management Performance Grant Program and the Urban Search and Rescue Grant program authorized under—

(A) title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.);

(B) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106–74; 113 Stat. 1047 et seq.); and

(C) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

(4) The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(5) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(6) Grant programs under the Public Health Service Act regarding preparedness for bioterrorism and other public health emergencies and the Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

SEC. 404. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 801 the following:

''SEC. 802. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, in coordination with the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and other agencies providing assistance for first responder preparedness, as identified by the President, shall establish the Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs (referred to in this subtitle as the 'Interagency Committee').

''(2) COMPOSITION.—The Interagency Committee shall be composed of—

''(A) a representative of the Department;

''(B) a representative of the Department of Health and Human Services;

''(C) a representative of the Department of Transportation;

''(D) a representative of the Department of Justice;

''(E) a representative of the Environmental Protection Agency; and

''(F) a representative of any other department or agency determined to be necessary by the President.

''(3) RESPONSIBILITIES.—The Interagency Committee shall—

''(A) report on findings to the Information Clearinghouse established under section 801(d);

''(B) consult with State and local governments and emergency response providers regarding their homeland security needs and capabilities;

''(C) advise the Secretary on the development of performance measures for homeland security grant programs and the national strategy for homeland security;

''(D) compile a list of homeland security assistance programs;

''(E) not later than 1 year after the effective date of the Homeland Security Grant Enhancement Act of 2004—

''(i) develop a proposal to coordinate, to the maximum extent practicable, the planning, reporting, application, and other guidance documents contained in homeland security assistance programs to eliminate all redundant and duplicative requirements; and

''(ii) submit the proposal developed under clause (i) to Congress and the President.

''(b) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee, which shall include—

''(1) scheduling meetings;

''(2) preparing agenda;

''(3) maintaining minutes and records; and

''(4) producing reports.

''(c) CHAIRPERSON.—The Secretary shall designate a chairperson of the Interagency Committee.

''(d) MEETINGS.—The Interagency Committee shall meet—

''(1) at the call of the Secretary; or

''(2) not less frequently than once every 1 month.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 801 the following:

''Sec. 802. Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs.''.

SEC. 405. STREAMLINING FEDERAL HOMELAND SECURITY GRANTS.

(a) DIRECTOR OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS.—Section 801(a) of the Homeland Security Act of 2002 (6 U.S.C. 361(a)) is amended to read as follows:

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Office of the Secretary the Office for State and Local Government Coordination and Preparedness, which shall oversee and coordinate departmental programs for, and relationships with, State and local governments.

''(2) EXECUTIVE DIRECTOR.—The Office established under paragraph (1) shall be headed by the Executive Director of State and Local Government Coordination and Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate.''.

(b) OFFICE FOR DOMESTIC PREPAREDNESS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by redesignating section 430 as section 803 and transferring that section to the end of subtitle A of title VIII, as amended by section 4; and

(2) in section 803, as redesignated by paragraph (1)—

(A) in subsection (a), by striking ''the Directorate of Border and Transportation Security'' and inserting ''the Office for State and Local Government Coordination and Preparedness'';

(B) in subsection (b), by striking ''who shall be appointed by the President'' and all that follows and inserting ''who shall report directly to the Executive Director of State and Local Government Coordination and Preparedness.'';

(C) in subsection (c)—

(i) in paragraph (7)—

(I) by striking ''other'' and inserting ''the'';

(II) by striking ''consistent with the mission and functions of the Directorate''; and

(III) by striking ''and'' at the end; and

(ii) in paragraph (8)—

(I) by inserting ''carrying out'' before ''those elements'';

(II) by striking the period at the end and inserting ''; and'' ; and

(iii) by adding at the end the following:

''(9) managing the Homeland Security Information Clearinghouse established under section 801(d).'';

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

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

''(d) TRAINING AND EXERCISES OFFICE WITHIN THE OFFICE FOR DOMESTIC PREPAREDNESS.—

''(1) IN GENERAL.—The Secretary shall create within the Office for Domestic Preparedness an internal office that shall be the proponent for all national domestic preparedness, training, education, and exercises within the Office for State and Local Government Coordination.

''(2) OFFICE HEAD.—The Secretary shall select an individual with recognized expertise in first-responder training and exercises to head the office, and such person shall report directly to the Director of the Office of Domestic Preparedness.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by striking the item relating to section 430;

(2) by amending section 801 to read as follows:

''Sec. 801. Office of State and Local Government Coordination and Preparedness.''; and

(3) by inserting after the item relating to section 802, as added by this Act, the following:

''Sec. 803. Office for Domestic Preparedness.''.

(d) ESTABLISHMENT OF HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—Section 801 of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), as amended by subsection (a), is further amended by adding at the end the following:

''(d) HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—

''(1) ESTABLISHMENT.—There is established within the Office for State and Local Government Coordination a Homeland Security Information Clearinghouse (referred to in this section as the 'Clearinghouse'), which shall assist States, local governments, and first responders in accordance with paragraphs (2) through (5).

''(2) HOMELAND SECURITY GRANT INFORMATION.—The Clearinghouse shall create a new website or enhance an existing website, establish a toll-free number, and produce a single publication that each contain information regarding the homeland security grant programs identified under section 802(a)(4).

''(3) TECHNICAL ASSISTANCE.—The Clearinghouse, in consultation with the Interagency Committee established under section 802, shall provide information regarding—

''(A) technical assistance provided by any Federal agency to States and local governments to conduct threat analyses and vulnerability assessments; and

''(B) templates for conducting threat analyses and vulnerability assessments.

''(4) BEST PRACTICES.—The Clearinghouse shall work with States, local governments, emergency response providers and the National Domestic Preparedness Consortium, and private organizations to gather, validate, and disseminate information regarding successful State and local homeland security programs and practices.

''(5) USE OF FEDERAL FUNDS.—The Clearinghouse shall compile information regarding equipment, training, and other services purchased with Federal funds provided under the homeland security grant programs identified under section 802(a)(4), and make such information, and information regarding voluntary standards of training, equipment, and exercises, available to States, local governments, and first responders.

''(6) OTHER INFORMATION.—The Clearinghouse shall provide States, local governments, and first responders with any other information that the Secretary determines necessary.''.

SEC. 406. THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security (referred to in this section as the ''Secretary'') may award grants to States and local governments to enhance homeland security.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded under subsection (a)—

(A) shall be used to address homeland security matters related to acts of terrorism or major disasters and related capacity building; and

(B) shall not be used to supplant ongoing first responder expenses or general protective measures.

(2) ALLOWABLE USES.—Grants awarded under subsection (a) may be used to—

(A) develop State plans or risk assessments (including the development of the homeland security plan) to respond to terrorist attacks and strengthen all hazards emergency planning and communitywide plans for responding to terrorist or all hazards emergency events that are coordinated with the capacities of applicable Federal, State, and local governments, first responders, and State and local government health agencies;

(B) develop State, regional, or local mutual aid agreements;

(C) purchase or upgrade equipment based on State and local needs as identified under a State homeland security plan;

(D) conduct exercises to strengthen emergency preparedness of State and local first responders including law enforcement, firefighting personnel, and emergency medical service workers, and other emergency responders identified in a State homeland security plan;

(E) pay for overtime expenses relating to—

(i) training activities consistent with the goals outlined in a State homeland security plan;

(ii) as determined by the Secretary, activities relating to an increase in the threat level under the Homeland Security Advisory System; and

(iii) any other activity relating to the State Homeland Security Strategy, and approved by the Secretary;

(F) promote training regarding homeland security preparedness including—

(i) emergency preparedness responses to a use or threatened use of a weapon of mass destruction; and

(ii) training in the use of equipment, including detection, monitoring, and decontamination equipment, and personal protective gear; and

(G) conduct any activity permitted under the Law Enforcement Terrorism Prevention Grant Program.

(3) PROHIBITED USES.—

(A) CONSTRUCTION.—Grants awarded under subsection (a) may not be used to construct buildings or other physical facilities, except those described in section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196) and approved by the Secretary in the homeland security plan certified under subsection (d), or to acquire land.

(B) COST SHARING.—Grant funds provided under this section shall not be used for any State or local government cost sharing contribution request under this section.

(c) APPLICATION.—

(1) SUBMISSION.—A State may apply for a grant under this section by submitting to the Secretary an application at such time, and in such manner, and containing such information the Secretary may reasonably require.

(2) REVISIONS.—A State may revise a homeland security plan certified under subsection (d) at the time an application is submitted under paragraph (1) after receiving approval from the Secretary.

(3) APPROVAL.—The Secretary shall not award a grant under this section unless the application submitted by the State includes a homeland security plan meeting the requirements of subsection (d).

(4) RELEASE OF FUNDS.—The Secretary shall release grant funds to States with approved plans after the approval of an application submitted under this subsection.

(d) HOMELAND SECURITY PLAN.—

(1) IN GENERAL.—An application submitted under subsection (c) shall include a certification that the State has prepared a 3-year State homeland security plan (referred to in this subsection as the ''plan'') to respond to terrorist attacks and strengthen all hazards emergency planning that has been approved by the Secretary.

(2) CONTENTS.—The plan shall contain measurable goals and objectives that—

(A) establish a 3-year strategy to set priorities for the allocation of funding to political subdivisions based on the risk, capabilities, and needs described under paragraph (3)(C);

(B) provide for interoperable communications;

(C) provide for local coordination of response and recovery efforts, including procedures for effective incident command in conformance with the National Incident Management System;

(D) ensure that first responders and other emergency personnel have adequate training and appropriate equipment for the threats that may occur;

(E) provide for improved coordination and collaboration among police, fire, and public health authorities at State and local levels;

(F) coordinate emergency response and public health plans;

(G) mitigate risks to critical infrastructure that may be vulnerable to terrorist attacks;

(H) promote regional coordination among contiguous local governments;

(I) identify necessary protective measures by private owners of critical infrastructure;

(J) promote orderly evacuation procedures when necessary;

(K) ensure support from the public health community for measures needed to prevent, detect and treat bioterrorism, and radiological and chemical incidents;

(L) increase the number of local jurisdictions participating in local and statewide exercises;

(M) meet preparedness goals as determined by the Secretary; and

(N) include a report from the relevant advisory committee established under paragraph (3)(D) that documents the areas of support, disagreement, or recommended changes to the plan before its submission to the Secretary.

(3) DEVELOPMENT PROCESS.—

(A) IN GENERAL.—In preparing the plan under this section, a State shall—

(i) provide for the consideration of all homeland security needs;

(ii) follow a process that is continuing, inclusive, cooperative, and comprehensive, as appropriate; and

(iii) coordinate the development of the plan with the homeland security planning activities of local governments.

(B) COORDINATION WITH LOCAL PLANNING ACTIVITIES.—The coordination under subparagraph (A)(iii) shall contain input from local stakeholders, including—

(i) local officials, including representatives of rural, high-population, and high-threat jurisdictions;

(ii) first responders and emergency response providers; and

(iii) private sector companies, such as railroads and chemical manufacturers.

(C) SCOPE OF PLANNING.—Each State preparing a plan under this section shall, in conjunction with the local stakeholders under subparagraph (B), address all the information requested by the Secretary, and complete a comprehensive assessment of—

(i) risk, including a—

(I) vulnerability assessment;

(II) threat assessment; and

(III) public health assessment, in coordination with the State bioterrorism plan; and

(ii) capabilities and needs, including—

(I) an evaluation of current preparedness, mitigation, and response capabilities based on such assessment mechanisms as shall be determined by the Secretary;

(II) an evaluation of capabilities needed to address the risks described under clause (i); and

(III) an assessment of the shortfall between the capabilities described under subclause (I) and the required capabilities described under subclause (II).

(D) ADVISORY COMMITTEE.—

(i) IN GENERAL.—Each State preparing a plan under this section shall establish an advisory committee to receive comments from the public and the local stakeholders identified under subparagraph (B).

(ii) COMPOSITION.—The Advisory Committee shall include local officials, local first responders, and emergency response providers that are representative of the counties, cities, and towns within the State, and which shall include representatives of rural, high-population, and high-threat jurisdictions.

(4) PLAN APPROVAL.—The Secretary shall approve a plan upon finding that the plan meets the requirements of—

(A) paragraphs (2) and (3);

(B) the interim performance measurements under subsection (g)(1), or the national performance standards under subsection (g)(2); and

(C) any other criteria the Secretary determines necessary to the approval of a State plan.

(5) REVIEW OF ADVISORY COMMITTEE REPORT.—The Secretary shall review the recommendations of the advisory committee report incorporated into a plan under subsection (d)(2)(N), including any dissenting views submitted by advisory committee members, to ensure cooperation and coordination between local and State jurisdictions in planning the use of grant funds under this section.

(e) TENTATIVE ALLOCATION.—

(1) URBAN AREA SECURITY INITIATIVE GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall allocate 25 percent of the funds appropriated under the Threat-Based Homeland Security Grant Program for discretionary grants to be provided directly to local governments, including multistate entities established by a compact between 2 or more States, in high threat areas, as determined by the Secretary based on the criteria under subparagraph (B).

(B) CRITERIA.—The Secretary shall ensure that each local government receiving a grant under this paragraph—

(i) has a large population or high population density;

(ii) has a high degree of threat, risk, and vulnerability related to critical infrastructure or not less than 1 key asset identified by the Secretary or State homeland security plan;

(iii) has an international border with Canada or Mexico, or coastline bordering international waters of Canada, Mexico, or bordering the Atlantic Ocean, the Pacific Ocean, or the Gulf of Mexico; or

(iv) are subject to other threat factors specified in writing by the Secretary.

(C) CONSISTENCY.—Any grant awarded under this paragraph shall be used to supplement and support, in a consistent and coordinated manner, those activities and objectives described under subsection (b) or a State homeland security plan.

(D) COORDINATION.—The Secretary shall ensure that any grants made under this paragraph encourage multiple contiguous units of local government and mutual aid partners to coordinate any homeland security activities.

(2) STATE HOMELAND SECURITY GRANT PROGRAM.—

(A) STATES.—Each State whose application is approved under subsection (c) shall receive, for each fiscal year, the greater of—

(i) 0.75 percent of the amounts appropriated for the State Homeland Security Grant Program; or

(ii) the State's per capita share, as defined by the 2002 census population estimate, of 38.625 percent of the State Homeland Security Grant Program.

(B) INSULAR AREAS.—Each insular area shall receive, for each fiscal year, the greater of—

(i) 0.075 percent of the amounts appropriated for the State Homeland Security Grant Program; or

(ii) the insular area's per capita share, as defined by the 2002 census population estimate, of 38.625 percent of the State Homeland Security Grant Program.

(3) SECONDARY DISTRIBUTION.—After the distribution of funds under paragraph (2), the Secretary shall, from the remaining funds for the State Homeland Security Grant Program and 10.8 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program pursuant to subsection (j)(1), distribute amounts to each State that—

(A) has a substantial percentage of its population residing in Metropolitan Statistical Areas, as defined by the Office of Management and Budget;

(B) has a high degree of threat, risk, and vulnerability related to critical infrastructure or not less than 1 key asset identified by the Secretary or State homeland security plan;

(C) has an international border with Canada or Mexico, or coastline bordering international waters of Canada, Mexico, or bordering the Atlantic Ocean, the Pacific Ocean, or the Gulf of Mexico; or

(D) are subject to other threat factors specified in writing by the Secretary.

(4) DISTRIBUTION OF FUNDS.—If the amounts tentatively allocated under paragraphs (1) through (3) equal the sum of the amounts appropriated pursuant to subsection (j), the Secretary shall distribute the appropriated amounts based on the tentative allocation.

(5) PROPORTIONAL REDUCTION.—If the amount appropriated for the Large High-Threat State Fund pursuant to subsection (j)(2) is less than 10.8 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program pursuant to subsection (j)(1), the Secretary shall proportionately reduce the amounts tentatively allocated under paragraphs (1) through (3) so that the amount distributed is equal to the sum of the amounts appropriated for such programs.

(6) FUNDING FOR LOCAL ENTITIES AND FIRST RESPONDERS.—The Secretary shall require recipients of the State Homeland Security Grant to provide local governments and first responders, consistent with the applicable State homeland security plan, with not less than 80 percent of the grant funds, the resources purchased with such grant funds, or a combination thereof, not later than 60 days after receiving grant funding.

(7) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this subsection shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this Act.

(8) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

(A) IN GENERAL.—The Secretary shall designate not more than 25 percent of the amounts allocated through the State Homeland Security Grant Program to be used for the Law Enforcement Terrorism Prevention Program to provide grants to law enforcement agencies to enhance capabilities for terrorism prevention.

(B) USE OF FUNDS.—Grants awarded under this paragraph may be used for—

(i) information sharing to preempt terrorist attacks;

(ii) target hardening to reduce the vulnerability of selected high value targets;

(iii) threat recognition to recognize the potential or development of a threat;

(iv) intervention activities to interdict terrorists before they can execute a threat;

(v) interoperable communication systems;

(vi) overtime expenses related to the State Homeland Security Strategy approved by the Secretary; and

(vii) any other terrorism prevention activity authorized by the Secretary.

(f) REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a grant under this section shall annually submit a report to the Secretary that contains—

(A) an accounting of the amount of State and local funds spent on homeland security activities under the applicable State homeland security plan; and

(B) information regarding the use of grant funds by units of local government as required by the Secretary.

(g) ACCOUNTABILITY.—

(1) INTERIM PERFORMANCE MEASURES.—

(A) IN GENERAL.—Before establishing performance standards under paragraph (2), the Secretary shall assist each State in establishing interim performance measures based upon—

(i) the goals and objectives under subsection (d)(2); and

(ii) any other factors determined by the Secretary.

(B) ANNUAL REPORT.—Before establishing performance measures under paragraph (2), each State with an approved State plan shall submit to the Secretary a report detailing the progress the State has made in meeting the interim performance measures established under subparagraph (A).

(2) NATIONAL PERFORMANCE STANDARDS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall set national performance standards based in part on the goals and objectives under subsection (d)(2) and any other factors the Secretary determines relevant.

(B) COMPLIANCE.—The Secretary shall ensure that State plans are in conformance with the standards set under subparagraph (A).

(C) ANNUAL REPORT.—After the establishment of performance standards under subparagraph (A), each State with an approved State homeland security plan shall submit to the Secretary a report on the progress the State has made in meeting such standards.

(3) GENERAL ACCOUNTING OFFICE ACCESS TO INFORMATION.—Each recipient of a grant under this section and the Department of Homeland Security shall provide the General

Accounting Office with full access to information regarding the activities carried out under this section.

(4) AUDIT.—Grant recipients that expend $500,000 or more in Federal funds during any fiscal year shall submit to the Secretary an organization wide financial and compliance audit report in conformance with the requirements of chapter 75 of title 31, United States Code.

(h) REMEDIES FOR NON-COMPLIANCE.—

(1) IN GENERAL.—If the Secretary finds, after reasonable notice and an opportunity for a hearing, that a recipient of a grant under this section has failed to substantially comply with any provision of this section, the Secretary shall—

(A) terminate any payment of grant funds to be made to the recipient under this section;

(B) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not expended by the recipient in accordance with this section; or

(C) limit the use of grant funds received under this section to programs, projects, or activities not affected by the failure to comply.

(2) DURATION OF PENALTY.—The Secretary shall apply an appropriate penalty under paragraph (1) until such time as the Secretary determines that the grant recipient is in full compliance with this section.

(3) DIRECT FUNDING.—If a State fails to substantially comply with any provision of this section, including failing to provide local governments with grant funds or resources purchased with grant funds in a timely fashion, a local government entitled to receive such grant funds or resources may petition the Secretary, at such time and in such manner as determined by the Secretary, to request that grant funds or resources be provided directly to the local government.

(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to Congress that provides—

(1) findings relating to the performance standards established under subsection (g);

(2) the status of preparedness goals and objectives;

(3) an evaluation of how States and local governments are meeting preparedness goals and objectives;

(4) the total amount of resources provided to the States;

(5) the total amount of resources provided to units of local government; and

(6) a list of how these resources were expended.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(2) LARGE HIGH-THREAT STATE FUND.—There are authorized to be appropriated 10.8 percent of the funds appropriated in any fiscal year pursuant to paragraph (1), which shall be used to carry out the Large High-Threat State Fund.

SEC. 407. ELIMINATING HOMELAND SECURITY FRAUD, WASTE, AND ABUSE.

(a) ANNUAL GENERAL ACCOUNTING OFFICE AUDIT AND REPORT.—

(1) AUDIT.—The Comptroller General shall conduct an annual audit of the Threat Based Homeland Security Grant Program

(2) REPORT.—The Comptroller General shall provide a report to Congress on the results of the audit conducted under paragraph (1), which includes—

(A) an analysis of whether the grant recipients allocated funding consistent with the State homeland security plan and the guidelines established by the Department of Homeland Security; and

(B) the amount of funding devoted to overtime and administrative expenses.

(b) REVIEWS OF THREAT-BASED HOMELAND SECURITY FUNDING.—The Secretary, through the appropriate agency, shall conduct periodic reviews of grants made through the Threat Based Homeland Security Grant Program to ensure that recipients allocate funds consistent with the guidelines established by the Department of Homeland Security.

(c) REMEDIES FOR NON-COMPLIANCE.—If the Secretary determines, after reasonable notice and an opportunity for a hearing, that a recipient of a Threat Based Homeland Security Grant has failed to substantially comply with any regulations or guidelines issues by the Department regarding eligible expenditures, the Secretary shall—

(1) terminate any payment of grant funds scheduled to be made to the recipient;

(2) reduce the amount of payment of grant finds to the recipient by an amount equal to the amount of grant funds that were not expended by the recipient in accordance with such guidelines; or

(3) limit the use of grant funds received under the Threat Based Homeland Security Grant Program to programs, projects, or activities not affected by the failure to comply.

(d) DURATION OF PENALTY.—The Secretary shall apply an appropriate penalty under subsection (c) until such time as the Secretary determines that the grant recipient is in full compliance with the guidelines established by the Department of Homeland Security.

SEC. 408. FLEXIBILITY IN UNSPENT HOMELAND SECURITY FUNDS.

(a) REALLOCATION OF FUNDS.—The Director of the Office for Domestic Preparedness, Department of Homeland Security, shall allow any State to request approval to reallocate funds received pursuant to appropriations for the State Homeland Security Grant Program under Public Laws 105–277 (112 Stat. 2681 et seq.), 106–113 (113 Stat. 1501A–3 et seq.), 106–553 (114 Stat. 2762A–3 et seq.), 107–77 (115 Stat. 78 et seq.), or the Consolidated Appropriations Resolution of 2003 (Public Law 108–7), among the 4 categories of equipment, training, exercises, and planning.

(b) APPROVAL OF REALLOCATION REQUESTS.—The Director shall approve reallocation requests under subsection (a) in accordance with the State plan and any other relevant factors that the Secretary of Homeland Security determines to be necessary.

(c) LIMITATION.—A waiver under this section shall not affect the obligation of a State to pass through 80 percent of the amount appropriated for equipment to units of local government.

SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) IN GENERAL.—The Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste unless and until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau of Customs and Border Protection of the Department of Homeland Security to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

(b) DEFINED TERM.—In this section, the term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

SA 3706. Mr. SPECTER (for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 23, strike ''a principal'' and insert ''the principal''.

On page 10, line 26, strike ''and''.

On page 11, strike line 1 and 2 and insert the following:

(4) direct, oversee, and execute the National Intelligence Program; and

(5) supervise, direct, and control the operations of the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the elements, components, and programs of the Defense Intelligence Agency (other than the defense attaches) engaged in the collection of national intelligence, with the head of each such agency, element, component, or program reporting directly to the National Intelligence Director.

On page 14, line 3, strike ''issue'' and insert ''direct''.

On page 14, line 13, strike ''manage and oversee'' and insert ''supervise, direct, and control''.

On page 15, line 10, strike ''encourage and''.

On page 16, line 5, strike ''condition of'' and insert ''requirement for''.

On page 19, line 6, strike ''and''.

On page 19, between lines 6 and 7, insert the following:

(20) review, approve, and manage the research and development efforts of the intelligence community;

(21) review, approve, and manage the acquisition programs of the National Intelligence Program, including all acquisitions of major systems by the intelligence community covered by section 506A of the National Security Act of 1947 (50 U.S.C. 415a–1) or described in section 162 of this Act; and

On page 19, line 7, strike ''(20)'' and insert ''(22)''.

On page 20, between lines 3 and 4, insert the following:

(d) RESPONSIBILITY FOR PERFORMANCE OF SPECIFIC FUNCTIONS.—In carrying out responsibilities under this section, the National Intelligence Director shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of human intelligence activities (other than activities of the defense attaches, which shall remain under the direction of the Secretary of Defense) and other national intelligence collection activities performed by the Defense Intelligence Agency;

(3) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law and consistent with the policies, procedures, standards, and other directives of the National Intelligence Director and the Chief Information Officer of the National Intelligence Authority, for—

(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information; and

(4) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research, development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community.

(e) NATIONAL INTELLIGENCE COLLECTION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence using technical means, human sources, and other lawful techniques;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 20, line 4, strike ''(d)'' and insert ''(f)''.

On page 32, beginning on line 8, strike ''oversee and direct'' and all that follows through line 10 and insert ''direct and coordinate''.

On page 109, line 12, strike ''subject to paragraph (4),''

On page 109, line 13, strike ''and''.

On page 109, line 19, strike the period and insert ''; and''.

On page 109, between lines 19 and 20, insert the following:

(D) ensure compliance with section 506A of the National Security Act of 1947 (50 U.S.C. 415a–1).

On page 110, strike lines 4 through 19 and insert the following:

(3) With respect to the acquisition of a major system (as that term is defined in section 506A(e) of the National Security Act of 1947), the National Intelligence Director may delegate a duty, responsibility, or authority under this section or any other provision of law only to the Principal Deputy National Intelligence Director or to another Deputy National Intelligence Director specified by the Director.

(4) In this subsection:

On page 111, line 1, strike ''whole'' and insert ''whole or in part''.

On page 111, line 3, strike ''The term'' and insert ''Except for purposes of paragraph (3), the term''.

On page 179, strike lines 1 through 4 and insert the following:

''(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

''(2) The Director of the Central Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add ''and'' at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike ''(4)'' and insert ''(3)''.

On page 181, strike lines 1 through 10.

On page 196, between lines 19 and 20, insert the following:

SEC. 304. NATIONAL SECURITY AGENCY.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new sections:

''SEC. 2. There is a National Security Agency.

''SEC. 3. (a) The Director of the National Security Agency is the head of the National Security Agency.

''(b)(1) The Director of the National Security Agency shall be under the direction, supervision, and control of the National Intelligence Director.

''(2) The Director of the National Security Agency shall report directly to the National Intelligence Director regarding the activities of the National Security Agency.''.

SEC. 305. DEFENSE INTELLIGENCE AGENCY.

(a) SUPERVISION.—Except as provided in subsection (b), the Director of the Defense Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director regarding the national intelligence collection mission of the Defense Intelligence Agency.

(b) DEFENSE ATTACHES.—With respect to the activities of the defense attaches, the Director of the Defense Intelligence Agency shall be under the direction, supervision, and control of the Secretary of Defense.

(c) LINE OF AUTHORITY.—The Director of the Defense Intelligence Agency shall report directly to the National Intelligence Director with respect to any programs, operations, and elements of the Directorate for Human Intelligence and the Directorate for MASINT and Technical Collection of the Defense Intelligence Agency that carry out the national intelligence collection mission of the Defense Intelligence Agency, other than those specified in subsection (b).

SEC. 306. NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) SUPERVISION AND CONTROL BY NATIONAL INTELLIGENCE DIRECTOR.—(1) Section 441 of title 10, United States Code, is amended by striking subsection (c) and inserting the following new subsection (c):

''(c) SUPERVISION.—(1) The Director of the National Geospatial-Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

''(2) The Director of the National Geospatial-Intelligence Agency shall report directly to the National Intelligence regarding the activities of the National Geospatial-Intelligence Agency.''.

(2) Such title is further amended by striking ''Secretary of Defense'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(A) Section 453(a).

(B) Section 453(b)(1).

(C) Section 454.

(D) Section 455(b)(1), both places it appears.

(E) Section 462, the first place it appears.

(b) SUPPORT.—Section 444 of such title is amended by striking ''Director of Central Intelligence'' each place it appears and inserting ''Director of the Central Intelligence Agency''.

(c) OTHER AMENDMENTS.—(1) Subsection (d) of section 441 of such title is amended by striking ''The Secretary of Defense, in consultation with the Director of Central Intelligence,'' and inserting ''The National Intelligence Director''.

(2) Section 442(b) of such title is amended by striking ''Secretary of Defense'' and inserting ''National Intelligence Director, in coordination with the Secretary of Defense''.

(3) Section 443(d) of such title is amended—

(A) in the subsection caption, by striking ''CENTRAL INTELLIGENCE'' and inserting ''CENTRAL INTELLIGENCE AGENCY''; and

(B) by striking ''of the Agency shall coordinate with the Director of Central Intelligence'' and inserting ''of the National Geospatial-Intelligence Agency shall coordinate with the Director of the Central Intelligence Agency''.

(4) Section 451 of such title is amended by striking ''Secretary of Defense'' and inserting ''National Intelligence Director, in coordination with the Secretary of Defense,''.

(5) Section 452(a) of such title is amended—

(A) by striking ''of the Department of Defense''; and

(B) by striking ''Secretary of Defense'' and inserting ''National Intelligence Director''.

(6) Section 455(b)(1) of such title is amended by striking ''Department of Defense'' and inserting ''United States Government''.

(7) Section 457(a) of such title is amended by striking ''Secretary of Defense'' and inserting ''Director of the National Geospatial-Intelligence Agency, in coordination with the National Intelligence Director,''.

(8) Section 462 of such title is further amended by striking ''by the Secretary of Defense''.

SEC. 307. NATIONAL RECONNAISSANCE OFFICE.

(a) SUPERVISION.—The Director of the National Reconnaissance Office shall be under the direction, supervision, and control of the National Intelligence Director.

(b) LINE OF AUTHORITY.—The Director of the National Reconnaissance Office shall report directly to the National Intelligence Director regarding the activities of the National Reconnaissance Office.

On page 196, line 20, strike ''**304.**'' and insert ''**308.**''.

On page 197, line 8, strike ''**305.**'' and insert ''**309.**''.

On page 198, line 19, strike ''**306.**'' and insert ''**310.**''.

On page 200, line 5, strike ''**307.**'' and insert ''**311.**''.

On page 200, strike lines 9 through 11 and insert the following:

(a) IN GENERAL.—Subsection (a) of section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) by striking paragraph (1) and inserting the following new paragraphs:

''(1) ensure that—

''(A) the budgets of the elements of the intelligence community within the Department of Defense relating to the tactical intelligence activities of such elements are adequate to satisfy the tactical intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands; and

''(B) the budgets of the elements of the intelligence community within the Department of Defense relating to the intelligence and intelligence-related activities of such elements—

''(i) comply with the requirements and priorities specified by the Director with respect to the National Intelligence Program; and

''(ii) conform, to the maximum extent, to the guidance provided by the Director to such elements on those portions of their budgets in the Joint Military Intelligence

Program and the Tactical Intelligence and Related Activities Program;

''(2) ensure that the national intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, are conveyed to the Director for purposes of setting requirements and priorities for national intelligence;'';

(3) in paragraph (3), as so redesignated, by striking ''appropriate''; and

(4) in paragraph (5), as so redesignated, by inserting ''and comply with the national intelligence decisions of the Director'' before the semicolon.

(b) SPECIFIC FUNCTIONS.—Subsection (b) of such section is amended—

(1) by striking paragraphs (1), (2), and (3);

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (1), (2), and (3) respectively;

(3) in paragraph (1), as so redesignated, by striking ''or the National Security Council)'' and inserting '', the National Security Council, or the National Intelligence Director (when exercising the responsibilities and authorities provided under this Act, the National Intelligence Reform Act of 2004, or any other provision of law))''; and

(4) in paragraph (2), as so redesignated, by striking ''Department of Defense human intelligence activities, including''.

(c) ANNUAL EVALUATION OF PERFORMANCE OF CERTAIN OFFICIALS.—Such section is further amended by adding at the end the following new subsection:

''(d) ANNUAL EVALUATION OF PERFORMANCE OF CERTAIN OFFICIALS.—(1) The Secretary of Defense shall, in consultation with the Chairman of the Joint Chiefs of Staff, submit each year to the National Security Council, the National Intelligence Director, and the appropriate committees of Congress an evaluation of the performance and responsiveness to military intelligence requirements of the officials specified in paragraph (2).

''(2) The officials specified in this paragraph are as follows:

''(A) The Director of the Central Intelligence Agency.

''(B) The Director of the National Security Agency.

''(C) The Director of the Defense Intelligence Agency.

''(D) The Director of the National Geospatial-Intelligence Agency.

''(E) The Director of the National Reconnaissance Office.

On page 200, line 12, strike ''**308.**'' and insert ''**312.**''.

On page 200, line 19, strike ''**309.**'' and insert ''**313.**''.

On page 201, line 11, strike ''**310.**'' and insert ''**314.**''.

On page 203, between lines 8 and 9, insert the following:

SEC. 315. OVERSIGHT OF COMBAT SUPPORT AGENCIES OF THE INTELLIGENCE COMMUNITY.

(a) OVERSIGHT.—(1) Chapter 8 of title 10, United States Code, is amended by inserting after section 193 the following new section:

''§ 193a. Combat support agencies of the intelligence community: oversight

''(a) COMBAT READINESS.—(1) Every two years (or sooner, if approved by the National Intelligence Director), the Chairman of the Joint Chiefs of Staff shall, in consultation with the Secretary of Defense, submit to the National Intelligence Director a report on the combat support agencies of the intelligence community. Each report shall include—

''(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

''(B) any recommendations that the Chairman considers appropriate.

''(2) In preparing each report, the Chairman shall review the plans of each combat support agency of the intelligence community with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, provide the National Intelligence Director any recommendations for modifications of such plans that the Chairman considers appropriate.

''(b) PARTICIPATION IN JOINT TRAINING EXERCISES.—The Chairman shall, with the cooperation of the National Intelligence Director—

''(1) provide for the participation of the combat support agencies of the intelligence community in joint training exercises to the extent necessary to ensure that such agencies are capable of performing their support missions with respect to a war or threat to national security; and

''(2) assess the performance in joint training exercises of each combat support agency of the intelligence community and, in accordance with guidelines established by the Secretary of Defense, take steps to provide the National Intelligence Director recommendations for any change that the Chairman considers appropriate to improve that performance.

''(c) READINESS REPORTING SYSTEM.—The Chairman shall develop, in consultation with the director of each combat support agency of the intelligence community, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each combat support agency of the intelligence community to perform with respect to a war or threat to national security.

''(d) REVIEW OF NSA, NGA, AND NRO.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, but only with respect to combat support functions that such agencies perform for the Department of Defense.

''(2) The Secretary of Defense shall, in coordination with the National Intelligence Director, establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office.

''(e) COMBAT SUPPORT CAPABILITIES OF DIA, NSA, NGA, AND NRO.—The Secretary of Defense and the National Intelligence Director shall jointly develop and implement such policies and programs as they determine necessary to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office to accomplish assigned missions in support of military combat operations.

''(f) COMBAT SUPPORT AGENCY OF THE INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'combat support agency of the intelligence community' means any of the following agencies:

''(1) The National Security Agency.

''(2) The Defense Intelligence Agency.

''(3) The National Geospatial-Intelligence Agency.

''(4) The National Reconnaissance Office.''.

(2) The table of sections at the beginning of subchapter I of chapter 8 of such title is amended by inserting after the item relating to section 193 the following new item:

''193a. Combat support agencies of the intelligence community: oversight.''.

(b) CONFORMING AMENDMENTS.—Section 193 of such title is amended—

(1) by striking subsections (d) and (e);

(2) by redesignating subsection (f) as subsection (d); and

(3) in subsection (d), as so redesignated—

(A) by striking paragraphs (2) and (4); and

(B) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

On page 203, line 9, strike ''**311.**'' and insert ''**316.**''.

On page 204, line 1, strike ''**312.**'' and insert ''**317.**''.

On page 209, line 4, strike ''**334.**'' and insert ''**333.**''.

On page 209, line 15, strike ''**335.**'' and insert ''**334.**''.

On page 210, line 23, strike ''**336.**'' and insert ''**315.**''.

SA 3707. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 16 and 17, insert the following:

(d) TERM OF OFFICE; REMOVAL.—(1) The term of service of the National Intelligence Director shall be ten years.

(2) An individual may not serve more than one term of service as National Intelligence Director.

(3) Paragraphs (1) and (2) shall apply with respect to any individual appointed as National Intelligence Director after the date of the enactment of this Act.

(4) If the individual serving as Director of Central Intelligence on the date of the enactment of this Act is the first person appointed as National Intelligence Director under this section, the date of appointment of such individual as National Intelligence Director shall be deemed to be the date of the commencement of the term of service of such individual as National Intelligence Director.

(5) The individual serving as National Intelligence Director may be removed from service as National Intelligence Director only for good cause shown.

On page 10, line 17, strike ''(d)'' and insert ''(e)''.

On page 11, line 3, strike ''(e)'' and insert ''(f)''.

On page 11, line 5, strike ''subsection (c)'' and insert ''subsection (e)''.

SA 3708. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 13 after line 19 insert the following:

''(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:''

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Deborah Sundquist of my staff be granted floor privileges for the duration of today's session.

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

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Paul Brand, Andrew Young, Sara Hagigh, Rob Culbertson, Joseph Helble, Wilson Wang, Andrew Weinschenk, and Matt Doyle of my staff and the Governmental Affairs Committee staff have privileges of the floor during the debate on S. 2845.

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

Ms. COLLINS. Mr. President, I ask unanimous consent that the following Governmental Affairs Committee detailees be granted floor privileges during the duration of this bill: Deborah Barger, Donald Bumgardner, Keith Herrington, Keith Janssen, William Murray, Edward Priestap, and Cornelius Southall.

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

FOREIGN OPERATIONS EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

On Thursday, September 23, 2004 the Senate passed H.R. 4818, as follows:

H.R. 4818

Resolved, That the bill from the House of Representatives (H.R. 4818) entitled ''An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

INSPECTOR GENERAL OF THE EXPORT-IMPORT BANK

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $1,140,000.

EXPORT-IMPORT BANK LOANS PROGRAM ACCOUNT

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act: Provided further, That notwithstanding section 1(c) of Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect through October 1, 2005.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $115,700,000, to remain available until September 30, 2008: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall remain available until September 30, 2023 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2005, 2006, 2007, and 2008: Provided further, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, and related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any Eastern European country, any Baltic State or any agency or national thereof: Provided further, That not later than 30 days after the date of enactment of this Act, the Export-Import Bank shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, containing an analysis of the economic impact on United States producers of ethanol of the extension of credit and financial guarantees for the development of an ethanol dehydration plant in Trinidad and Tobago, including a determination of whether such extension will cause substantial injury to such producers, as defined in section 2(e)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(4)): Provided further, That the Export-Import Bank shall consult with the Committees on Appropriations and the Senate Committee on Finance prior to extending direct credit or financial guarantee to establish or expand the production of indigenous products for export by a beneficiary country pursuant to section 423 of the Tax Reform Act of 1986 (19 U.S.C. 2703 note).

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $30,000 for official reception and representation expenses for members of the Board of Directors, $73,200,000: Provided, That the Export-Import Bank may accept, and use, payment or services provided by transaction participants for legal, financial, or technical services in connection with any transaction for which an application for a loan, guarantee or insurance commitment has been made: Provided further, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2005.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: Provided, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $42,885,000: Provided further, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2005 and 2006: Provided further, That such sums shall remain available through fiscal year 2013 for the disbursement of direct and guaranteed loans obligated in fiscal year 2005, and through fiscal year 2014 for the disbursement of direct and guaranteed loans obligated in fiscal year 2006.

In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $49,000,000, to remain available until September 30, 2006.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2005, unless otherwise specified herein, as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,550,000,000, to remain available until September 30, 2007: Provided, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: Provided further, That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: Provided further, That of the funds appropriated under this heading, not to exceed $250,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: Provided further, That the following amounts should be allocated as follows: $345,000,000 for child survival and maternal

health; $30,000,000 for vulnerable children; $600,000,000 for HIV/AIDS including not less than $32,000,000 to support the development of microbicides as a means for combating HIV/AIDS; $200,000,000 for other infectious diseases; and $375,000,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: Provided further, That of the funds appropriated under this heading, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 1701 et seq.) as amended, for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the ''Global Fund''), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: Provided further, That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, not less than $28,000,000 should be made available for the International AIDS Vaccine Initiative and not less than $28,000,000 should be made available for a United States contribution to UNAIDS: Provided further, That of the funds appropriated under this heading, $65,000,000 should be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading ''Operating Expenses of the United States Agency for International Development'' for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding provisos: Provided further, That restrictions with respect to assistance provided with funds appropriated by this Act for HIV/AIDS, family planning, or child survival and health activities shall not be construed to restrict assistance in support of programs to expand the availability and use of condoms for HIV/AIDS prevention and of contraceptives to reduce the incidence of abortion: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, directly supports coercive abortion or involuntary sterilization: Provided further, That the previous proviso shall not be construed to deny funding to any organization or program solely because the government of a country engages in coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: Provided further, That none of the funds made available under this Act may be used to lobby for or against abortion: Provided further, That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term ''motivate'', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

DEVELOPMENT ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,460,000,000, to remain available until September 30, 2006: Provided, That none of the funds appropriated under title II of this Act that are managed by or allocated to the United States Agency for International Development's Global Development Secretariat, may be made available except through the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $37,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: Provided further, That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $40,000,000 shall be made available for plant biotechnology research and development: Provided further, That not less than $2,300,000 shall be made available for core support for the International Fertilizer Development Center: Provided further, That of the funds appropriated under this heading, not less than $22,000,000 should be made available for the American Schools and Hospitals Abroad program: Provided further, That of the funds appropriated under this heading, not less than $1,000,000 shall be made available for support of the United States Telecommunications Training Institute: Provided further, That of the funds appropriated under this heading, not less than $2,000,000 shall be made available for support of the International Real Property Foundation: Provided further, That of the funds appropriated under this heading, not less than $5,000,000 should be made available for pilot programs in the Democratic Republic of the Congo, Uganda, Burundi, and Liberia to address sexual and gender-based violence: Provided further, That of the funds appropriated under this heading, in addition to funds made available pursuant to the previous proviso, not less than $8,000,000 should be made available for assistance for Liberia: Provided further, That of the funds appropriated under this heading, $2,000,000 shall be made available for Water Missions International to develop clean water treatment projects in developing countries: Provided further, That of the funds appropriated by this Act, $100,000,000 shall be made available for drinking water supply projects and related activities.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 for international disaster relief, rehabilitation, and reconstruction assistance, $335,500,000, to remain available until expended.

In addition, for necessary expenses for assistance for famine prevention and relief, including for mitigation of the effects of famine, $50,000,000, to remain available until expended: Provided, That such funds shall be made available utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, and shall be in addition to amounts otherwise available for such purposes: Provided further, That funds appropriated by this paragraph shall be available for obligation subject to prior consultation with the Committees on Appropriations.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $50,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: Provided, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: Provided further, That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance: Provided further, That if the President determines that is important to the national interests of the United States to provide transition assistance in excess of the amount appropriated under this heading, up to $15,000,000 of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961 may be used for purposes of this heading and under the authorities applicable to funds appropriated under this heading: Provided further, That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with the Committees on Appropriations.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading ''Assistance for Eastern Europe and the Baltic

States'': Provided, That such funds shall not exceed $21,000,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: Provided further, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to $700,000,000: Provided further, That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading: Provided further, That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations.

In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $8,000,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: Provided, That funds made available under this heading shall remain available until September 30, 2007.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the ''Foreign Service Retirement and Disability Fund'', as authorized by the Foreign Service Act of 1980, $42,500,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $618,000,000, of which up to $25,000,000 may remain available until September 30, 2006: Provided, That none of the funds appropriated under this heading and under the heading ''Capital Investment Fund'' may be made available to finance the construction (including architect and engineering services), purchase, or long-term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long-term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: Provided further, That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long-term lease of offices does not exceed $1,000,000: Provided further, That contracts or agreements entered into with funds appropriated under this heading may entail commitments for the expenditure of such funds through fiscal year 2006: Provided further, That none of the funds in this Act may be used to open a new overseas mission of the United States Agency for International Development without the prior written notification of the Committees on Appropriations: Provided further, That the authority of sections 610 and 109 of the Foreign Assistance Act of 1961 may be exercised by the Secretary of State to transfer funds appropriated to carry out chapter 1 of part I of such Act to ''Operating Expenses of the United States Agency for International Development'' in accordance with the provisions of those sections.

CAPITAL INVESTMENT FUND

For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667 of the Foreign Assistance Act of 1961, $59,000,000, to remain available until expended: Provided, That this amount is in addition to funds otherwise available for such purposes: Provided further, That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and such rental payments shall be deposited into this account as an offsetting collection: Provided further, That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations: Provided further, That the assignment of United States Government employees or contractors to space in buildings constructed using funds appropriated under this heading shall be subject to the concurrence of the Administrator of the United States Agency for International Development: Provided further, That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $35,000,000, to remain available until September 30, 2006, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,470,000,000, to remain available until September 30, 2006: Provided, That of the funds appropriated under this heading, not less than $360,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act or by October 31, 2004, whichever is later: Provided further, That not less than $535,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic and political reforms which are additional to those which were undertaken in previous fiscal years, and of which not more than $200,000,000 shall be provided as Commodity Import Program assistance: Provided further, That with respect to the provision of assistance for Egypt for democracy and governance activities, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the Government of Egypt: Provided further, That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: Provided further, That of the funds appropriated under this heading, not less than $250,000,000 shall be made available only for assistance for Jordan: Provided further, That funds appropriated under this heading shall be made available for administrative costs of the United States Agency for International Development to implement regional programs in Asia and the Near East, including the Middle East Partnership Initiative, in addition to amounts otherwise available for such purposes: Provided further, That $13,500,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: Provided further, That $35,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon, of which not less than $4,000,000 should be made available to American educational institutions for scholarships and direct support: Provided further, That notwithstanding section 5034(a) of this Act, funds appropriated under this heading that are made available for assistance for the Central Government of Lebanon shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That not to exceed $200,000,000 of the funds appropriated under this heading may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: Provided further, That amounts that are made available under the previous proviso for the costs of modifying direct loans and guarantees shall not be considered ''assistance'' for the purposes of provisions of law limiting assistance to a country: Provided further, That of the funds appropriated under this heading, not less than $22,000,000 shall be made available for assistance for the Democratic Republic of Timor-Leste, of which up to $1,000,000 may be available for administrative expenses of the United States Agency for International Development: Provided further, That of the funds available under this heading for assistance for Indonesia, not less than $3,000,000 shall be made available to Internews to promote freedom of the media in Indonesia and not less than $2,000,000 shall be made available for economic development programs conducted by Indonesian universities: Provided further, That of the funds available under this heading for assistance for Jordan, $5,000,000 should be made available for the Rosary Sisters Hospital in Jordan: Provided further, That of the funds available under this heading for the ''Middle East Partnership Initiative'', up to $4,500,000 may be made available for scholarship programs for students from countries with significant Muslim populations at American institutions of higher education in the Middle East that are accredited by an accrediting agency recognized by the United States Department of Education: Provided further, That of the funds appropriated under this heading, not less than $2,500,000 should be made available for technical assistance for countries to implement and enforce the Kimberley Process Certification Scheme: Provided further, That of the funds appropriated under this heading, not less than $3,750,000 should be made available for East Asia and Pacific Environment Initiatives: Provided further, That of the funds appropriated under this heading, not less than $10,000,000 should be made available for assistance for Kenya: Provided further, That of the funds appropriated under this heading, not less than $25,000,000 should be made available for assistance for Liberia: Provided further, That of the funds appropriated under this heading, not less than $500,000 should be made available to support the Commission to Investigate Illegal Groups and Clandestine Security Apparatus in Guatemala: Provided further, That of the funds appropriated under this heading, $3,000,000 shall be made available for the Foundation for Security and Sustainability: Provided further, That of the funds appropriated under this heading that are made available for assistance for Pakistan, not less than $10,000,000 should be made available to support programs and activities conducted by indigenous organizations that seek to further educational, health, employment, and other opportunities for the people of Pakistan, of which up to $4,000,000 should be made available for the Pakistan Human Development Fund and $1,000,000 for the Amanut Society: Provided further, That of the funds appropriated under this heading, $10,000,000 shall

be made available to continue to support the provision of wheelchairs for needy persons in developing countries: Provided further, That funds appropriated under this heading that are made available for a Middle East Financing Facility, Middle East Enterprise Fund, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $410,000,000, to remain available until September 30, 2006, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States: Provided, That of the funds appropriated under this heading that are made available for assistance for Bulgaria, $2,000,000 shall be made available to enhance safety at nuclear power plants: Provided further, That of the funds appropriated under this heading, not more than $87,000,000 may be made available for assistance for Serbia: Provided further, That the amount contained in the previous proviso shall be reduced by an amount equal to the amount of financial and other support, as determined by the Secretary of State, that Serbia has provided to Slobodan Milosevic and other indicted war criminals, and their families, during calendar year 2004: Provided further, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: Provided further, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(c) Notwithstanding any provision of this or any other Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, $560,000,000, to remain available until September 30, 2006: Provided, That the provisions of such chapters shall apply to funds appropriated by this paragraph: Provided further, That funds made available for the Southern Caucasus region may be used, notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: Provided further, That of the funds appropriated under this heading, $8,000,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: Provided further, That of the funds appropriated under this heading, $20,000,000 shall be made available solely for assistance for the Russian Far East: Provided further, That of the funds appropriated under this heading, $6,000,000 should be made available for an emergency operations center in Kazakhstan: Provided further, That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses: Provided further, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: Provided further, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

(b) Of the funds appropriated under this heading that are made available for assistance for Ukraine, not less than $5,000,000 shall be made available for nuclear reactor safety initiatives, and not less than $3,000,000 shall be made available for coal mine safety programs.

(c) Of the funds appropriated under this heading, not less than $93,000,000 shall be made available for assistance for Russia, of which not less than $4,000,000 shall be made available to the National Endowment for Democracy for democracy, human rights and rule of law programs.

(d) Of the funds appropriated under this heading, not less than $75,000,000 shall be made available for assistance for Armenia.

(e) Of the funds appropriated under this heading, not less than $6,500,000 shall be made available for democracy, human rights, and rule of law programs in Belarus.

(f)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation:

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(g) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

INDEPENDENT AGENCIES

INTER-AMERICAN FOUNDATION

For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, $19,000,000, to remain available until September 30, 2006.

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, $20,000,000, to remain available until September 30, 2006: Provided, That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the board of directors of the Foundation: Provided further, That interest earned shall be used only for the purposes for which the grant was made: Provided further, That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: Provided further, That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

PEACE CORPS

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612), $310,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: Provided, That none of the funds appropriated under this heading shall be used to pay for abortions: Provided further, That funds appropriated under this heading shall remain available until September 30, 2006.

MILLENNIUM CHALLENGE CORPORATION

For necessary expenses for the ''Millennium Challenge Account'', $1,120,000,000, to remain available until expended.

DEPARTMENT OF STATE

GLOBAL HIV/AIDS INITIATIVE

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the prevention, treatment, and control of, and research on, HIV/AIDS, $1,450,000,000, to remain available until expended: Provided, That increased emphasis should be given to building local capacity of foreign governments and nongovernmental organizations to implement sustainable HIV/AIDS prevention, care and treatment programs as a component of national health care delivery systems: Provided further, That of the funds appropriated under this heading, $25,000,000 shall be made available for HIV/AIDS education and outreach programs that utilize state of the art information technology: Provided further, That of the funds appropriated under the headings ''Assistance for Eastern Europe and the Baltic States'', ''Assistance for the Independent States of the Former Soviet Union'', ''Andean Counterdrug Initiative'', ''Foreign Military Financing Program'', and ''Economic Support Fund'', not less than $42,000,000 shall be made available for programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, and malaria: Provided further, That of the funds appropriated under this heading, not more than $8,818,000 may be made available for administrative expenses of the office of the Coordinator of United States Government Activities to Combat HIV/AIDS Globally of the Department of State.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $328,820,000, to remain available until September 30, 2007: Provided, That during fiscal year 2005, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated under this heading, $15,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers: Provided further, That the Secretary of State shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: Provided further, That of the funds appropriated under this heading, not less than $17,000,000 should be made available for training programs and activities of the International Law Enforcement Academies: Provided further, That of the funds appropriated under this heading, not less than $12,000,000 shall be made available for assistance for the Philippines for police training and other related activities: Provided further, That of the funds appropriated under this heading, $3,000,000 shall be made available for assistance for the Government of Malta for the purchase of helicopters to enhance its ability to control its borders and deter terrorists: Provided further, That of the funds appropriated under this heading, $5,000,000 shall be made available for combating piracy of United States intellectual property: Provided further, That of the funds appropriated under this heading, not less than $1,500,000 should be made available to the International Foundation of Hope for alternative crop programs in Nangarhar Province, Afghanistan: Provided further, That of the funds appropriated under this heading, not less than $1,000,000 should be made available for police training in the Democratic Republic of Timor-Leste: Provided further, That of the funds appropriated under this heading, not more than $26,117,000 may be available for administrative expenses.

ANDEAN COUNTERDRUG INITIATIVE

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $731,000,000, to remain available until September 30, 2007: Provided, That in fiscal year 2005, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: Provided further, That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: Provided further, That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: Provided further, That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: Provided further, That of the funds appropriated under this heading, not less than $272,000,000 shall be made available for alternative development/institution building, of which $240,000,000 shall be apportioned directly to the United States Agency for International Development, including $140,000,000 for assistance for Colombia: Provided further, That with respect to funds apportioned to the United States Agency for International Development under the previous proviso, the responsibility for policy decisions for the use of such funds, including what activities will be funded and the amount of funds that will be provided for each of those activities, shall be the responsibility of the Administrator of the United States Agency for International Development in consultation with the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs: Provided further, That of the funds appropriated under this heading, not less than $6,000,000 should be made available for judicial reform programs in Colombia: Provided further, That of the funds appropriated under this heading, in addition to funds made available pursuant to the previous proviso, not less than $6,000,000 shall be made available to the United States Agency for International Development for organizations and programs to protect human rights: Provided further, That funds appropriated by this Act that are otherwise available for such purposes may be made available to support the demobilization of illegal armed groups in Colombia only if the Secretary of State certifies to the Committees on Appropriations that: (1) the Colombian legal framework governing the demobilization of such groups provides for prosecution and punishment, in proportion to the crimes committed, of those responsible for gross violations of human rights and drug trafficking; (2) actions are being taken by the Government of Colombia to ensure the dismantling of underlying structures of such groups, including the seizure of financial and real property assets; (3) actions are being taken by the Government of Colombia to enable the return of civilians forcibly displaced by such groups; and (4) the Government of Colombia has not enacted legislation inconsistent with its obligations under the United States-Colombian treaty on extradition, and has committed to the United States that it will continue to extradite Colombian citizens to the United States, including members of such illegal armed groups, in accordance with that treaty: Provided further, That not more than 20 percent of the funds appropriated by this Act that are used for the procurement of chemicals for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State certifies to the Committees on Appropriations that: (1) the herbicide mixture is being used in accordance with EPA label requirements for comparable use in the United States and with Colombian laws; and (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment: Provided further, That such funds may not be made available unless the Secretary of State certifies to the Committees on Appropriations that complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims: Provided further, That such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: Provided further, That of the funds appropriated under this heading, not less than $2,000,000 should be made available through nongovernmental organizations for programs to protect biodiversity and indigenous reserves in Colombia: Provided further, That funds appropriated by this Act may be used for aerial fumigation in Colombia's national parks or reserves only if the Secretary of State certifies that it is in accordance with Colombian laws and that there are no effective alternatives to reduce drug cultivation in these areas: Provided further, That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: Provided further, That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961 shall be made available subject to the regular notification procedures of the Committees on Appropriations: Provided further, That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: Provided further, That funds appropriated under this heading that are available for assistance for the Bolivian military and police are subject to the regular notification procedures of the Committees on Appropriations and may be made available for such purposes only if the Bolivian military and police are respecting human rights and cooperating with civilian judicial authorities, and the Bolivian Government is prosecuting and punishing those responsible for violations of human rights: Provided further, That of the funds appropriated under this heading, not more than $16,285,000 may be available for administrative expenses of the Department of State, and not more than $4,500,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $775,000,000, which shall remain available until expended: Provided, That not more than $22,000,000 may be available for administrative expenses: Provided further, That not less than $50,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel: Provided further, That funds made available under this heading should be made available to international organizations for assistance for refugees from North Korea: Provided further, That funds made available under this heading and the heading ''Emergency Migration and Refugee Assistance Fund'' shall be made available to nongovernmental organizations located in Thailand for humanitarian assistance inside Burma: Provided further, That funds appropriated under this heading may be made available for a headquarters contribution to the

International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), $50,000,000, to remain available until expended: Provided, That funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of such Act which would limit the amount of funds which could be appropriated for this purpose.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $415,200,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: Provided, That of this amount not to exceed $34,500,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: Provided further, That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: Provided further, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: Provided further, That funds available during fiscal year 2005 for a contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission and that are not necessary to make the United States contribution to the Commission in the amount assessed for fiscal year 2005 shall be made available for a voluntary contribution to the International Atomic Energy Agency and shall remain available until September 30, 2006: Provided further, That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: Provided further, That the Secretary of State is authorized to provide, from funds appropriated under this heading in this Act and each subsequent Act making appropriations for foreign operations, export financing and related programs, not to exceed $250,000 for public-private partnerships for mine action by grant, cooperative agreement, or contract: Provided further, That funds appropriated under this heading that are available for ''Anti-terrorism Assistance'' and ''Export Control and Border Security'' shall remain available until September 30, 2006: Provided further, That of the funds appropriated under this heading, $10,000,000 should be made available for mobile robot systems and radiation detection technology to combat international terrorism: Provided further, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: Provided further, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds: Provided further, That of the funds appropriated under this heading, $10,000,000 should be made available to reduce the threat that man-portable air defense systems ('MANPADS') could be acquired by terrorists or by state sponsors of terrorism.

CONFLICT RESPONSE FUND

For necessary expenses to assist in stabilizing and reconstructing a country that is in, or is in transition from, conflict or civil strife, $20,000,000, to remain available until expended: Provided, That funds available under this paragraph may be used for assistance for a country only if the Secretary of State determines and reports to the Committees on Appropriations, that it is important to the national security interest of the United States to do so and consults with the Committees on Appropriations prior to making any such determination: Provided further, That the responsibility for this determination required by the previous proviso and policy decisions and justifications for the use of funds made available under the authority of this paragraph, including the amount of assistance provided to a country under this authority, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and shall not be delegated: Provided further, That the President may exercise the authority of section 552 of the Foreign Assistance Act of 1961, without regard and in addition to the dollar limitations contained in that section, to furnish assistance under this heading with respect to any country that is the subject of a determination made under this heading: Provided further, That assistance furnished under this heading for any country that is the subject of a determination under this heading may be made available notwithstanding any other provision of law: Provided further, That the previous proviso shall not apply to section 5051 of this Act: Provided further, That the administrative authorities of the Foreign Assistance Act of 1961 shall be applicable to the funds and resources available under this paragraph: Provided further, That up to 5 percent of the funds available under this paragraph may be made available for the administrative costs of United States Government agencies implementing activities under this paragraph: Provided further, That funds and resources available under this heading shall be subject to the regular notification procedures of the Committees on Appropriations except that such notifications shall be transmitted at least 5 days in advance of the obligation of funds.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961, $17,500,000, to remain available until September 30, 2007, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended, and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, $95,000,000, to remain available until September 30, 2007: Provided, That not less than $20,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961: Provided further, That $75,000,000 of the funds appropriated under this heading may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: Provided further, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

(1) the Inter-American Development Bank;

(2) the African Development Fund;

(3) the African Development Bank; and

(4) the Central American Bank for Economic Integration:

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: Provided further, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: Provided further, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: Provided further, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

(1) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institutions to export-oriented commercial projects that generate foreign exchange which are generally referred to as ''enclave'' loans; and

(2) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: Provided further, That none of the funds made available under this heading in this

or any other appropriations Act shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $89,730,000, of which up to $3,000,000 may remain available until expended: Provided, That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: Provided further, That of the funds appropriated under this heading, not less than $2,000,000 shall be made available for assistance for Greece: Provided further, That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training, and funds made available for Cambodia, Haiti, the Democratic Republic of the Congo, Nigeria and Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY FINANCING PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,777,500,000: Provided, That of the funds appropriated under this heading, not less than $2,220,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: Provided further, That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act or by October 31, 2004, whichever is later: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $583,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further, That of the funds appropriated by this paragraph, $206,000,000 shall be made available for assistance for Jordan: Provided further, That of the funds appropriated by this paragraph, $5,000,000 may be transferred to and consolidated with funds appropriated under the heading ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', and made available, in addition to amounts otherwise available for such purposes, as follows: $2,500,000, to remain available until expended, may be made available to carry out the provisions of section 504 of the FREEDOM Support Act for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament; and $2,500,000 may be made available as an additional contribution to ''Anti-Terrorism Assistance'' programs: Provided further, That of the funds appropriated by this paragraph, $10,000,000 shall be made available for assistance for Tunisia: Provided further, That of the funds appropriated by this paragraph, $8,000,000 shall be made available for assistance for Armenia: Provided further, That of the funds appropriated by this paragraph, not less than $30,000,000 shall be made available for assistance for Liberia: Provided further, That of the funds appropriated under this heading, not more than $2,000,000 may be made available for assistance for Uganda and only for non-lethal military equipment if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uganda, during the previous six months, has made significant improvements in: (1) the protection of human rights, especially preventing acts of torture; (2) the protection of civilians in northern and eastern Uganda; (3) the professionalization of the Ugandan armed forces, including transparency of military budgets; and (4) the prevention of recruitment of children into armed militias and the demobilization of existing militias: Provided further, That of the funds appropriated under this heading, not less than $15,000,000 shall be made available for assistance for Georgia: Provided further, That in addition to the funds appropriated under this heading, up to $150,000,000 may be derived by transfer from unobligated balances of funds appropriated under the headings ''Economic Support Fund'' and ''Foreign Military Financing Program'' in prior appropriations Acts and not otherwise designated in those Acts for a specific country, use, or purpose: Provided further, That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: Provided further, That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: Provided, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 5015 of this Act: Provided further, That none of the funds appropriated under this heading shall be available for assistance for Sudan and Guatemala: Provided further, That none of the funds appropriated under this heading may be made available for assistance for Haiti except pursuant to the regular notification procedures of the Committees on Appropriations: Provided further, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: Provided further, That only those countries for which assistance was justified for the ''Foreign Military Sales Financing Program'' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: Provided further, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: Provided further, That not more than $40,500,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: Provided further, That not more than $367,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2005 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: Provided further, That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2005 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act or by October 31, 2004, whichever is later.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $104,000,000: Provided, That notwithstanding any other provision of law except section 5051 of this Act, funds appropriated for the Department of Defense for fiscal year 2005 may be transferred to the Department of State and may be made available by the Department of State to provide such assistance as the Secretary of State deems appropriate for the military or security forces of a foreign country in order to enhance the capability of such country to participate in international peacekeeping or peace enforcement operations: Provided further, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, $120,678,000 to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $820,000,000, to remain available until expended.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, $15,000,000, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, $59,691,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, $1,100,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $79,532,933.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, $67,000,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $35,431,000 for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $121,997,000.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, $15,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $328,925,000: Provided, That none of the funds appropriated under this heading may be made available to the International Atomic Energy Agency (IAEA): Provided further, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: Provided further, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

TITLE V—GENERAL PROVISIONS

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 5001. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, ''international financial institutions'' are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 5002. None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

LIMITATION ON RESIDENCE EXPENSES

SEC. 5003. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 5004. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the United States Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 5005. Of the funds appropriated or made available pursuant to this Act, not to exceed $125,000 shall be available for representation allowances for the United States Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading ''Foreign Military Financing Program'', not to exceed $2,000 shall be available for entertainment expenses and not to exceed $125,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading ''International Military Education and Training'', not to exceed $50,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: Provided further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading ''Trade and Development Agency'', not to exceed $2,000 shall be available for representation and entertainment allowances: Provided further, That of the funds made available by this Act under the heading ''Millennium Challenge Corporation'', not to exceed $100,000 shall be available for representation allowances.

PROHIBITION ON TAXATION OF UNITED STATES ASSISTANCE

SEC. 5006. (a) PROHIBITION ON TAXATION.—None of the funds appropriated by this Act may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

(b) REIMBURSEMENT OF FOREIGN TAXES.—An amount equivalent to 200 percent of the total taxes assessed during fiscal year 2005 on funds appropriated by this Act by a foreign government or entity against commodities financed under United States assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors and subcontractors shall be withheld from obligation from funds appropriated for assistance for fiscal year 2006 and allocated for the central government of such country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the Committees on Appropriations that such taxes have not been reimbursed to the Government of the United States.

(c) DE MINIMIS EXCEPTION.—Foreign taxes of a de minimis nature shall not be subject to the provisions of subsection (b).

(d) REPROGRAMMING OF FUNDS.—Funds withheld from obligation for each country or entity pursuant to subsection (b) shall be reprogrammed for assistance to countries which do not assess taxes on United States assistance or which have an effective arrangement that is providing substantial reimbursement of such taxes.

(e) DETERMINATIONS.—

(1) The provisions of this section shall not apply to any country or entity the Secretary of State determines—

(A) does not assess taxes on United States assistance or which has an effective arrangement that is providing substantial reimbursement of such taxes; or

(B) the foreign policy interests of the United States outweigh the policy of this section to ensure that United States assistance is not subject to taxation.

(2) The Secretary of State shall consult with the Committees on Appropriations at least 15 days prior to exercising the authority of this subsection with regard to any country or entity.

(f) IMPLEMENTATION.—The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of assistance contained in this section.

(g) DEFINITIONS.—As used in this section—

(1) the terms ''taxes'' and ''taxation'' refer to value added taxes and customs duties imposed on commodities financed with United States assistance for programs for which funds are appropriated by this Act; and

(2) the term ''bilateral agreement'' refers to a framework bilateral agreement between the Government of the United States and the government of the country receiving assistance that describes the privileges and immunities applicable to United States foreign assistance for such country generally, or an individual agreement between the Government of the United States and such government that describes, among other things, the treatment for tax purposes that will be accorded the United States assistance provided under that agreement.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 5007. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Libya, North Korea, Iran, or Syria: Provided, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 5008. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup: Provided, That assistance may be resumed to such government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: Provided further, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: Provided further, That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFERS

SEC. 5009. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for

transfers specifically provided for in this Act, unless the President, not less than five days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: Provided, That funds transferred under such authority may be made available for the cost of such audits.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 5010. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

AVAILABILITY OF FUNDS

SEC. 5011. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: Provided, That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapters 4, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the heading ''Assistance for Eastern Europe and the Baltic States'', shall remain available for an additional four years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: Provided further, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 5012. No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 5013. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: Provided, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 5014. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 5015. For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for ''Child Survival and Health Programs Fund'', ''Development Assistance'', ''International Organizations and Programs'', ''Trade and Development Agency'', ''International Narcotics Control and Law Enforcement'', ''Andean Counterdrug Initiative'', ''Assistance for Eastern Europe and the Baltic States'', ''Assistance for the Independent States of the Former Soviet Union'', ''Economic Support Fund'', ''Global HIV/AIDS Initiative'', ''Peacekeeping Operations'', ''Capital Investment Fund'', ''Operating Expenses of the United States Agency for International Development'', ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', ''Nonproliferation, Anti-terrorism, Demining and Related Programs'', ''Millennium Challenge Corporation'' (by country only), ''Foreign Military Financing Program'', ''International Military Education and Training'', ''Peace Corps'', and ''Migration and Refugee Assistance'', shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: Provided, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: Provided further, That this section shall not apply to any reprogramming for an activity, program, or project for which funds are appropriated under title II of this Act of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: Provided further, That all reprogrammings of funds appropriated by this Act and prior Acts under the headings ''International Narcotics Control and Law Enforcement'' and ''Andean Counterdrug Initiative'' by the Department of State shall be subject to the same review and approval procedures by the Department of State as apply to the reprogramming by the Department of funds appropriated under the heading ''Economic Support Fund'': Provided further, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: Provided further, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 5016. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2006.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 5017. (a) None of the funds appropriated under the heading ''Assistance for the Independent States of the Former Soviet Union'' shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: Provided, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(b) None of the funds appropriated under the heading ''Assistance for the Independent States of the Former Soviet Union'' shall be made available for any state to enhance its military capability: Provided, That this restriction does

not apply to demilitarization, demining or nonproliferation programs.

(c) Funds appropriated under the heading ''Assistance for the Independent States of the Former Soviet Union'' for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

(d) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(e) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading ''Assistance for the Independent States of the Former Soviet Union'' and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to Europe and Eurasia and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 5018. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 5019. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2005, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: Provided, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 5020. None of the funds appropriated by this Act shall be obligated or expended for Liberia, Serbia, Sudan, Zimbabwe, Pakistan, Cambodia, or Haiti except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 5021. For the purpose of this Act, ''program, project, and activity'' shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, ''program, project, and activity'' shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development ''program, project, and activity'' shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND HEALTH ACTIVITIES

SEC. 5022. Up to $13,500,000 of the funds made available by this Act for assistance under the heading ''Child Survival and Health Programs Fund'', may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: Provided, That up to $3,500,000 of the funds made available by this Act for assistance under the heading ''Development Assistance'' may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: Provided further, That funds appropriated by titles II and III of this Act that are made available for bilateral assistance for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading ''Child Survival and Health Programs Fund'' and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.), as amended: Provided further, That of the funds appropriated under title II of this Act, not less than $450,000,000 shall be made available for family planning/reproductive health.

AFGHANISTAN

SEC. 5023. Of the funds appropriated by this Act, not less than $504,450,000 shall be made available for humanitarian and reconstruction assistance for Afghanistan: Provided, That of the funds made available pursuant to this section, not less than $225,000,000 should be from funds appropriated under the heading ''Economic Support Fund'': Provided further, That funds appropriated by this Act that are available for assistance for the Afghan National Army should be made available if members of the Army have been vetted for any involvement in terrorism, human rights violations, drug trafficking, and other serious criminal activity: Provided further, That of the funds made available pursuant to this section, not less than $2,000,000 should be made available for reforestation activities: Provided further, That funds made available pursuant to the previous proviso should be matched, to the maximum extent possible, with contributions from American and Afghan businesses: Provided further, That of the funds made available pursuant to this section, not less than $2,000,000 shall be made available for the Afghan Independent Human Rights Commission and for other Afghan human rights organizations: Provided further, That of the funds made available pursuant to this section, not less than $50,000,000 shall be made available to support programs that directly address the needs of Afghan women and girls, of which not less than $15,000,000 shall be made available for small grants to support training and equipment to improve the capacity of women-led Afghan nongovernmental organizations and to support the activities of such organizations: Provided further, That not less than $2,000,000 should be made available for assistance for Afghan communities and families that have suffered losses as a result of the military operations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 5024. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: Provided, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: Provided further, That such Committees shall also be informed of the original acquisition cost of such defense articles.

HIV/AIDS WORKING CAPITAL FUND

SEC. 5025. (a) In furtherance of the purposes of section 104A of the Foreign Assistance Act of 1961, and to assist in providing a safe, secure, reliable, and sustainable supply chain of pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally (the ''Coordinator'') is authorized to establish an HIV/AIDS Working Capital Fund (in this section referred to as the ''HIV/AIDS Fund'').

(b) Funds deposited during any fiscal year in the HIV/AIDS Fund shall be available without fiscal year limitation and used for pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, including, but not limited to—

(1) anti-retroviral drugs;

(2) other pharmaceuticals and medical items needed to provide care and treatment to persons with HIV/AIDS and related infections;

(3) laboratory and other supplies for performing tests related to the provision of care and treatment to persons with HIV/AIDS and related infections;

(4) other medical supplies needed for the operation of HIV/AIDS treatment and care centers, including products needed in programs for the prevention of mother-to-child transmission;

(5) pharmaceuticals and health commodities needed for the provision of palliative care; and

(6) laboratory and clinical equipment, as well as equipment needed for the transportation and care of HIV/AIDS supplies, and other equipment needed to provide prevention, care and treatment of HIV/AIDS described above.

(c) There may be deposited during any fiscal year in the HIV/AIDS Fund payments for HIV/AIDS pharmaceuticals and products provided from the HIV/AIDS Fund received from applicable appropriations and funds of the United States Agency for International Development, the Department of Health and Human Services, the Department of Defense, or other Federal agencies and other sources at actual cost of the HIV/AIDS pharmaceuticals and other products, actual cost plus the additional costs of providing such HIV/AIDS pharmaceuticals and other products, or at any other price agreed to by the Coordinator or his designee.

(d) There may be deposited in the HIV/AIDS Fund payments for the loss of, or damage to, HIV/AIDS pharmaceuticals and products held in the HIV/AIDS Fund, rebates, reimbursements, refunds and other credits application to the operation of the HIV/AIDS Fund.

(e) At the close of each fiscal year the Coordinator may transfer out of the HIV/AIDS Fund to other HIV/AIDS programmatic areas such amounts as the Coordinator determines to be in excess of the needs of the HIV/AIDS Fund.

(f) At the close of each fiscal year the Coordinator shall submit a report to the Committees on Appropriations detailing the financial activities of the HIV/AIDS Fund, including sources of income and information regarding disbursements.

DEMOCRACY PROGRAMS

SEC. 5026. (a) Notwithstanding any other provision of law, of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $35,000,000 shall be made available for assistance for activities to support democracy, human rights, and the rule of law in the People's Republic of China and Hong Kong: Provided, That funds appropriated under the heading ''Economic Support Fund'' should be made available for assistance for Taiwan for the purposes of furthering political and legal reforms: Provided further, That such funds shall only be made available to the extent that they are matched from sources other than the United States Government: Provided further, That funds made available pursuant to the authority of this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(b)(1) In addition to the funds made available in subsection (a), of the funds appropriated by this Act under the heading ''Economic Support Fund'' not less than $25,000,000 shall be made available for programs and activities to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism: Provided, That funds made available pursuant to the authority of this subsection should support new initiatives and activities in those countries: Provided further, That of the funds appropriated under this heading, $3,000,000 shall be made available for programs and activities that provide professional training for journalists, of which $2,000,000 shall be made available to Internews: Provided further, That of the funds appropriated under such heading, in addition to other amounts made available for Egypt in this Act, funds shall be made available to support civil society organizations working for democracy, human rights, and the rule of law in Egypt: Provided further, That notwithstanding any other provision of law, not less than $3,000,000 of such funds may be used for making grants to educational, humanitarian and nongovernmental organizations and individuals inside Iran to support the advancement of democracy and human rights in Iran: Provided further, That notwithstanding any other provision of law, funds appropriated pursuant to the authority of this subsection may be made available for democracy, human rights, and rule of law programs for Syria: Provided further, That funds made available pursuant to this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(2) In addition to funds made available under subsections (a) and (b)(1), of the funds appropriated by this Act under the heading ''Economic Support Fund'' not less than $5,000,000 shall be made available for programs and activities of the National Endowment for Democracy to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries in sub-Saharan Africa, and not less than $1,500,000 shall be made available for such programs and activities of the National Endowment for Democracy in countries in Asia.

(c) Of the funds made available under subsection (a), not less than $15,000,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, to support the activities described in subsection (a), and of the funds made available under subsection (b)(1), not less than $15,000,000 shall be made available for such Fund to support the activities described in subsection (b)(1): Provided, That the total amount of funds made available by this Act under ''Economic Support Fund'' for activities of the Bureau of Democracy, Human Rights and Labor, Department of State, including funds available in this section, shall be not less than $57,000,000.

(d) Of the funds made available under subsection (a), not less than $10,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (a), and of the funds made available under subsection (b)(1), not less than $5,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (b)(1): Provided, That the Secretary of State shall provide a report to the Committees on Appropriations within 120 days of the date of enactment of this Act on the status of the allocation and obligation of such funds.

(e) Of the funds made available under subsection (a), $10,000,000 shall be made available to American educational institutions for programs and activities in the People's Republic of China relating to the environment, democracy and the rule of law: Provided, That funds available under this subsection shall be made available subject to prior consultation with the Committees on Appropriations.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 5027. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 5028. In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and, subject to the regular notification procedures of the Committees on Appropriations, any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 5029. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of

subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ENTERPRISE FUND RESTRICTIONS

SEC. 5030. (a) Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

(b) Funds made available by this Act for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

BURMA

SEC. 5031. (a) The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose and vote against the extension by such institution of any loan or financial or technical assistance or any other utilization of funds of the respective bank to and for Burma.

(b) Of the funds appropriated under the heading ''Economic Support Fund'', not less than $15,000,000 shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma's borders: Provided, That funds made available under this heading may be made available notwithstanding any other provision of law: Provided further, That in addition to assistance for Burmese refugees provided under the heading ''Migration and Refugee Assistance'' in this Act, not less than $4,000,000 of the funds made available under this heading shall be made available for humanitarian assistance for displaced Burmese and host communities in Thailand, and not less than $3,000,000 of such funds shall be made available to Thailand-based, nongovernmental organizations operating along the Thai-Burma border to provide food, medical and other humanitarian assistance to internally displaced peoples in Burma: Provided further, That funds made available under this section shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) None of the funds appropriated by this Act may be made available to the central government of any country that is a major provider of weapons or other defense-related equipment to the State Peace and Development Council.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 5032. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 5033. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(b) assistance for any program, project, or activity that contributes to the violation of internationally recognized workers rights, as defined in section 507(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: Provided, That the application of section 507(4) (D) and (E) of such Act should be commensurate with the level of development of the recipient country and sector, and shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 5034. (a) AFGHANISTAN, IRAQ, PAKISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated by this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 5012 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles I and II of this Act that are made available for Iraq, Lebanon, Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking and to address sexual and gender-based violence, may be made available notwithstanding any other provision of law.

(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: Provided, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: Provided, That not more than 10 of such contractors shall be assigned to any bureau or office: Provided further, That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)(1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) SMALL BUSINESS.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

(f) CONTINGENCIES.—During fiscal year 2005, the President may use up to $50,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling in section 451(a).

(g) RECONSTITUTING CIVILIAN POLICE AUTHORITY.—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other sub-national entity emerging from instability, as well as a nation emerging from instability.

(h) WORLD FOOD PROGRAM.—Of the funds managed by the Bureau for Democracy, Conflict, and Humanitarian Assistance of the United States Agency for International Development, from this or any other Act, not less than $6,000,000 shall be made available as a general contribution to the World Food Program, notwithstanding any other provision of law.

(i) NATIONAL ENDOWMENT FOR DEMOCRACY.—Funds appropriated by this Act that are provided to the National Endowment for Democracy may be provided notwithstanding any other provision of law or regulation.

(j) SUDAN.—For the purposes of section 501 of Public Law 106–570, the terms ''areas outside of control of the Government of Sudan'' and ''area in Sudan outside of control of the Government of Sudan'' shall, upon conclusion of a peace agreement between the Government of Sudan and the Sudan People's Liberation Movement, have the same meaning and application as was the case immediately prior to the conclusion of such agreement.

(k) INDOCHINESE PAROLEES.—Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (8 U.S.C. 1255 note), as enacted into law by section 101(a) of Public Law 106–429, is amended—

(1) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''she'' and inserting ''the Secretary of Homeland Security''; and

(B) in paragraph (1), by striking ''within three years after the date of promulgation by the Attorney General of regulations in connection with this title'';

(3) in subsection (c), by striking ''212(8)(A)'' and inserting ''212(a)(8)(A)'';

(4) by striking subsection (d);

(5) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively;

(6) by adding at the end the following new subsection:

''(f) ADJUDICATION OF APPLICATIONS.—The Secretary of Homeland Security shall—

''(1) adjudicate applications for adjustment under this section, notwithstanding any limitation on the number of adjustments under this section or any deadline for such applications that previously existed in law or regulation; and

''(2) not charge a fee in addition to any fee that previously was submitted with such application.''; and

(7) The amendments made by this subsection shall take effect as if enacted as part of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001.

(l) EXTENSION OF AUTHORITY.—Public Law 107–57, as amended, is further amended—

(1) in section 1(b) by striking ''2004'' wherever appearing (including in the caption), and inserting in lieu thereof ''2005'';

(2) in section 3(2), by striking ''and ''2004'' and inserting in lieu thereof ''2004 and 2005''; and

(3) in section 6, by striking ''2004'' and inserting in lieu thereof ''2005''.

(m) ENDOWMENTS.—

(1) Of the funds appropriated by this Act and prior Acts making appropriations for foreign operations, export financing, and related programs, that are available for assistance for Cambodia, the following amounts should be made available as follows:

(A) $5,000,000 for an endowment for a Cambodian nongovernmental organization to document genocide and crimes against humanity in Cambodia; and

(B) $3,750,000 for an endowment for an American nongovernmental organization to sustain rehabilitation programs in Cambodia for persons suffering from physical disabilities.

(2) Such organizations may place amounts made available under this subsection in interest bearing accounts and any interest earned on such investment shall be used for the purpose for which funds were made available under this subsection.

(3) Funds appropriated in subsequent Acts making appropriations for foreign operations, export financing, and related programs may also be used for purposes of this subsection.

(n) CONFORMITY OF LAWS.—Title 16, United States Code is amended—

(1) in section 3371(f), by inserting ''or foreign country'' after ''indigenous to any State'';

(2) in section 3371(f)(B), by inserting ''or foreign'' after ''State'';

(3) in section 3372(a)(2)(B), by inserting before the semicolon ''or in violation of any foreign law''; and

(4) in section 3372(a)(3)(B), by inserting before the semicolon ''or in violation of any foreign law''.

(o) EXTENSION OF AUTHORITY.—Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), is amended under the heading ''Loan Guarantees to Israel''—

(1) by striking ''During the period beginning March 1, 2003, and ending September 30, 2005,'' and inserting ''During the period beginning March 1, 2003, and ending September 30, 2007,''; and

(2) by striking ''That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2005,'' and inserting ''That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2007,''.

(p) AFFORDABLE HOUSING.—Section 607(b)(3)(B) of title VI of division D of the Consolidated Appropriations Act of 2004, P.L. 108–199, January 23, 2004, is amended by striking ''and'' under subparagraph (A), and inserting before the period in subparagraph (B): ''; and (C) provide decent, affordable housing''

ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 5035. It is the sense of the Congress that—

(1) the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;

(2) the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;

(3) the three Arab League countries with diplomatic and trade relations with Israel should return their ambassadors to Israel, should refrain from downgrading their relations with Israel, and should play a constructive role in securing a peaceful resolution of the Israeli-Arab conflict;

(4) the remaining Arab League states should normalize relations with their neighbor Israel;

(5) the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and

(6) the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ELIGIBILITY FOR ASSISTANCE

SEC. 5036. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading ''Assistance for Eastern Europe and the Baltic States'': Provided, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 2005, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: Provided, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

RESERVATIONS OF FUNDS

SEC. 5037. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: Provided, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: Provided, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 5038. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 5039. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: Provided, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 5040. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NONGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

SEC. 5041. None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 5042. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES AND REAL PROPERTY TAXES OWED BY FOREIGN COUNTRIES

SEC. 5043. (a) Subject to subsection (c), of the funds appropriated by this Act that are made available for assistance for a foreign country, an amount equal to 110 percent of the total amount of the unpaid fully adjudicated parking fines and penalties and unpaid property taxes owed by the central government of such country shall be withheld from obligation for assistance for the central government of such country until the Secretary of State submits a certification to the appropriate congressional committees stating that such parking fines and penalties and unpaid property taxes are fully paid.

(b) Funds withheld from obligation pursuant to subsection (a) may be made available for other programs or activities funded by this Act, after consultation with and subject to the regulation notification procedures of the appropriate congressional committees, provided that no such funds shall be made available for assistance for the central government of a foreign country that has not paid the total amount of the fully adjudicated parking fines and penalties and upaid property taxes owed by such country.

(c) Subsection (a) shall not include amounts that have been withheld under any other provision of law.

(d)(1) The Secretary of State may waive the requirements set forth in subsection (a) with respect to parking fines and penalties no sooner than 60 days from the date of enactment of this Act, or at any time with respect to a particular country, if the Secretary determines that it is in the national interests of the United States to do so.

(2) the Secretary of State may waive the requirements set forth in subsection (a) with respect to the unpaid property taxes if the Secretary of State determines that it is in the national interests of the United States to do so.

(e) Not later than 6 months after the initial exercise of the waiver authority in subsection (d), the Secretary of State, after consultations with the City of New York, shall submit a report to the Committees on Appropriations describing a strategy, including a timetable and steps currently being taken, to collect the parking fines and penalties and unpaid property taxes and interest owed by nations receiving foreign assistance under this Act.

(f) In this section:

(1) The term ''appropriate congressional committees'' means the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(2) The term ''fully adjudicated'' includes circumstances in which the person to whom the vehicle is registered—

(A)(i) has not responded to the parking violation summons; or

(ii) has not followed the appropriate adjudication procedure to challenge the summons; and

(B) the period of time for payment of or challenge to the summons has lapsed.

(3) The term ''parking fines and penalties'' means parking fines and penalties—

(A) owed to—

(i) the District of Columbia; or

(ii) New York, New York; and

(B) incurred during the period April 1, 1997 through September 30, 2004.

(4) The term 'unpaid property taxes' means the amount of unpaid taxes and interest on such taxes that have accrued on real property in the District of Columbia or New York, New York under applicable law.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 5044. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: Provided, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 5045. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961 of up to $32,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: Provided, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): Provided further, That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: Provided further, That funds made available for tribunals other than Yugoslavia, Rwanda, or the Special Court for Sierra Leone shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 5046. Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 5047. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: Provided, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: Provided further, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 5048. None of the funds appropriated or otherwise made available by this Act under the heading ''International Military Education and Training'' or ''Foreign Military Financing Program'' for Informational Program activities or under the headings ''Child Survival and Health Programs Fund'', ''Development Assistance'', and ''Economic Support Fund'' may be obligated or expended to pay for—

(1) alcoholic beverages; or

(2) entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

HAITI

SEC. 5049. (a) Of the funds appropriated by this Act, not less than the following amounts shall be made available for assistance for Haiti—

(1) $20,000,000 from ''Child Survival and Health Programs Fund'', including $2,000,000 for Zanmi Lasante;

(2) $25,000,000 from ''Development Assistance'', of which not less than $15,000,000 shall be made available for agriculture and environment programs, including $2,000,000 for the Hillside Agriculture Production program;

(3) $35,000,000 from ''Economic Support Fund'', $25,000,000 of which shall be made available for judicial reform programs, and $10,000,000 of which shall be made available to the Organization of American States for expenses related to the organization and holding of free and fair elections in Haiti in 2005; and

(4) $10,000,000 from ''International Narcotics Control and Law Enforcement'', which shall be made available for police training.

(b) The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.

(c) Not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations containing an assessment of the Haitian Government's role in the trial and acquittal of Louis Jodel Chamblain, and of the Haitian Government's efforts to prosecute and punish individuals responsible for gross violations of human rights.

(d) Not less than 90 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations which contains a detailed multi-year assistance strategy for Haiti.

(e) Not later than 180 days after enactment of this Act and after consultation with appropriate international development organizations and Haitian officials, organizations and communities, the Administrator of the United States Agency for International Development shall submit a report to the Committees on Appropriations setting forth a plan for the reforestation of areas in Haiti that are vulnerable to erosion which pose significant danger to human health and safety.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 5050. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(d) REPORT.—Whenever the waiver authority pursuant to subsection (b) is exercised, the President shall submit a report to the Committees on Appropriations detailing the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure. The report shall also include a description of how funds will be spent and the accounting procedures in place to ensure that they are properly disbursed.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 5051. None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: Provided, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in

gross violations of human rights: Provided further, That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

FOREIGN MILITARY TRAINING REPORT

SEC. 5052. The annual foreign military training report required by section 656 of the Foreign Assistance Act of 1961 shall be submitted by the Secretary of Defense and the Secretary of State to the Committees on Appropriations of the House of Representatives and the Senate by the date specified in that section.

AUTHORIZATION REQUIREMENT

SEC. 5053. Funds appropriated by this Act, except funds appropriated under the headings ''Trade and Development Agency'', ''Millenium Challenge Corporation'', and ''Global HIV/AIDS Initiative'', may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

CAMBODIA

SEC. 5054. (a) The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Central Government of Cambodia, except loans to meet basic human needs.

(b)(1) None of the funds appropriated by this Act may be made available for assistance for the Central Government of Cambodia.

(2) Paragraph (1) shall not apply to assistance for basic education, reproductive and maternal and child health, cultural and historic preservation, programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases, development and implementation of legislation and implementation of procedures on inter-country adoptions consistent with international standards, counternarcotics programs, programs to combat human trafficking that are provided through nongovernmental organizations, and for the Ministry of Women and Veterans Affairs to combat human trafficking.

(c) Notwithstanding subsection (b), of the funds appropriated by this Act under the heading ''Economic Support Fund'', up to $5,000,000 may be made available for activities to support democracy, including assistance for democratic political parties.

(d) Funds appropriated by this Act to carry out provisions of section 541 of the Foreign Assistance Act of 1961 may be made available notwithstanding subsection (b) only if at least 15 days prior to the obligation of such funds, the Secretary of State provides to the Committees on Appropriations a list of those individuals who have been credibly alleged to have ordered or carried out extrajudicial and political killings that occurred during the March 1997 grenade attack against the Khmer Nation Party.

(e) None of the funds appropriated or otherwise made available by this Act may be used to provide assistance to any tribunal established by the Government of Cambodia.

PALESTINIAN STATEHOOD

SEC. 5055. (a) LIMITATION ON ASSISTANCE.—None of the funds appropriated by this Act may be provided to support a Palestinian state unless the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) a new leadership of a Palestinian governing entity has been democratically elected through credible and competitive elections;

(2) the elected governing entity of a new Palestinian state—

(A) has demonstrated a firm commitment to peaceful co-existence with the State of Israel;

(B) is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures;

(C) is establishing a new Palestinian security entity that is cooperative with appropriate Israeli and other appropriate security organizations; and

(3) the Palestinian Authority (or the governing body of a new Palestinian state) is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships, which should include—

(A) termination of all claims or states of belligerency;

(B) respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area through measures including the establishment of demilitarized zones;

(C) their right to live in peace within secure and recognized boundaries free from threats or acts of force;

(D) freedom of navigation through international waterways in the area; and

(E) a framework for achieving a just settlement of the refugee problem.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the newly elected governing entity should enact a constitution assuring the rule of law, an independent judiciary, and respect for human rights for its citizens, and should enact other laws and regulations assuring transparent and accountable governance.

(c) WAIVER.—The President may waive subsection (a) if he determines that it is important to the national security interests of the United States to do so.

(d) EXEMPTION.—The restriction in subsection (a) shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or a newly elected governing entity, in order to help meet the requirements of subsection (a), consistent with the provisions of section 5050 of this Act (''Limitation on Assistance to the Palestinian Authority'').

COLOMBIA

SEC. 5056. (a) DETERMINATION AND CERTIFICATION REQUIRED.—Notwithstanding any other provision of law, funds appropriated by this Act that are available for assistance for the Colombian Armed Forces, may be made available as follows:

(1) Up to 75 percent of such funds may be obligated prior to a determination and certification by the Secretary of State pursuant to paragraph (2).

(2) Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

(A) The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister of Defense or the Procuraduria General de la Nacion, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

(B) The Colombian Government is vigorously investigating and prosecuting those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed Forces found to have committed such violations of human rights or to have aided or abetted paramilitary organizations.

(C) The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

(D) The Colombian Armed Forces have made substantial progress in severing links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at the command, battalion, and brigade levels, with paramilitary organizations, especially in regions where these organizations have a significant presence.

(E) The Colombian Government is dismantling paramilitary leadership and financial networks by arresting commanders and financial backers, especially in regions where these networks have a significant presence.

(3) The balance of such funds may be obligated after July 31, 2005, if the Secretary of State certifies and reports to the appropriate congressional committees, after such date, that the Colombian Armed Forces are continuing to meet the conditions contained in paragraph (2) and are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(b) CONGRESSIONAL NOTIFICATION.—Funds made available by this Act for the Colombian Armed Forces shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) CONSULTATIVE PROCESS.—

(1) Prior to making the certifications required by subsection (a), the Secretary of State shall consult with the appropriate congressional committees, request the opinion of the Office of the United Nations High Commissioner for Human Rights in Colombia and consult with the International Committee of the Red Cross regarding each of the conditions specified in paragraphs (2)(A) through (E) of that subsection.

(2) Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2006, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in that subsection.

(d) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term ''aided or abetted'' means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term ''paramilitary groups'' means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 5057. (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

(b) WAIVER.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 5058. None of the funds appropriated or otherwise made available by this Act may be

used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

WEST BANK AND GAZA PROGRAM

SEC. 5059. (a) OVERSIGHT.—For fiscal year 2005, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading ''Economic Support Fund'' for the West Bank and Gaza.

(b) VETTING.—Prior to the obligation of funds appropriated by this Act under the heading ''Economic Support Fund'' for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which he has determined to be involved in or advocating terrorist activity.

(c) CERTIFICATION.—Prior to making an award of any grant or cooperative agreement obligating funds appropriated by this Act for assistance under the West Bank and Gaza program, the United States Agency for International Development shall obtain from the proposed recipient of such funds a certification to the effect that the recipient will take all reasonable steps to ensure that it does not, and will not, knowingly provide material support or resources to any individual or entity that engages in, or has engaged in, terrorist acts: Provided, That such certification shall also require that the proposed recipient will implement reasonable monitoring and oversight procedure to safeguard against assistance being diverted to support terrorist activity.

(d) PROHIBITION.—None of the funds appropriated by this Act for assistance under the West Bank and Gaza program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism.

(e) AUDITS.—(1) The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, under the West Bank and Gaza Program, are conducted at least on an annual basis to ensure, among other things, compliance with this section.

(2) Of the funds appropriated by this Act under the heading ''Economic Support Fund'' that are made available for assistance for the West Bank and Gaza, up to $1,000,000 may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of this subsection. Such funds are in addition to funds otherwise available for such purposes.

CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

SEC. 5060. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under ''International Organizations and Programs'' and ''Child Survival and Health Programs Fund'' for fiscal year 2005, $34,000,000 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the ''UNFPA''): Provided, That of this amount, not less than $25,000,000 shall be derived from funds appropriated under the heading ''International Organizations and Programs''.

(b) REPROGRAMMING OF FUNDS.—Of the funds appropriated in Public Law 108–199 that were available for the UNFPA, $25,000,000 shall be made available for the family planning, maternal, and reproductive health activities of the United States Agency for International Development in Albania, Azerbaijan, the Democratic Republic of the Congo, Ethiopia, Georgia, Haiti, Kazakhstan, Kenya, Nigeria, Romania, Russia, Rwanda, Tanzania, Uganda, and the Ukraine: Provided, That such programs and activities shall be deemed to have been justified to Congress.

(c) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under ''International Organizations and Programs'' may be made available for the UNFPA for a country program in the People's Republic of China.

(d) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under ''International Organizations and Programs'' for fiscal year 2005 for the UNFPA may not be made available to UNFPA unless—

(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(3) the UNFPA does not fund abortions.

(e) AVAILABILITY AND USE OF FUNDS.—Funds appropriated under the heading ''International Organizations and Programs'' that are not made available for UNFPA because of the operation of any provision of law shall remain available until September 30, 2006: Provided, That funds made available pursuant to this section may not be used for any other purpose, notwithstanding the authority contained in sections 451, 610 and 614 of the Foreign Assistance Act of 1961, or any other provision of law unless specifically authorized in subsequent legislation.

WAR CRIMINALS

SEC. 5061. (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the ''Tribunal'') all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords.

(f) DEFINITIONS.—As used in this section—

(1) COUNTRY.—The term ''country'' means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term ''entity'' refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term ''municipality'' means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term ''Dayton Accords'' means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

SEC. 5062. The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan, grant, strategy or policy of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' financing programs.

FUNDING FOR SERBIA

SEC. 5063. (a) Funds appropriated by this Act may be made available for assistance for the central Government of Serbia after May 31, 2005, if the President has made the determination and certification contained in subsection (c).

(b) After May 31, 2005, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of Serbia and Montenegro subject to the conditions in subsection (c): Provided, That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended, shall not apply to the provision of loans and assistance to the Government of Serbia and Montenegro through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of Serbia and Montenegro is—

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension, including making all practicable efforts to apprehend and transfer Ratko Mladic;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law.

(d) This section shall not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 5064. (a) AUTHORITY.—Funds made available by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict, respond to disasters, and foster improved police relations with the communities they serve.

(b) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 5065. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as ''Paris Club Agreed Minutes''.

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as ''IDA-only'' countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to the funds appropriated by this Act under the heading ''Debt Restructuring''.

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for the purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 5066. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading ''Debt Restructuring''.

BASIC EDUCATION

SEC. 5067. Of the funds appropriated by title II of this Act, not less than $335,000,000 should be made available for basic education.

RECONCILIATION PROGRAMS

SEC. 5068. Of the funds appropriated under the heading ''Economic Support Fund'', not less than $15,000,000 shall be made available to support reconciliation programs and activities which bring together individuals of different ethnic, religious, and political backgrounds from areas of civil conflict and war.

ENVIRONMENT PROGRAMS

SEC. 5069. (a) FUNDING.—Of the funds appropriated under the heading ''Development Assistance'', not less than $175,500,000 shall be made available for programs and activities which directly protect biodiversity, including forests, in developing countries, of which not less than $15,000,000 shall be made available to implement a regional strategy for biodiversity conservation in the countries comprising the Amazon basin of South America, including to improve the capacity of indigenous communities and local law enforcement agencies to protect the biodiversity of indigenous reserves, which amount shall be in addition to the amounts requested for biodiversity activities in these countries in fiscal year 2005: Provided, That funds appropriated under the heading ''Andean Counterdrug Initiative'' shall also be made available in fiscal year 2005 to support such strategy: Provided further, That of the funds appropriated by this Act, not less than $17,500,000 should be made available for the Congo Basin Forest Partnership, of which not less than $2,500,000 should be made available for the Great Apes Conservation Fund, administered by the United States Fish and Wildlife Service, for use in Central Africa: Provided further, That of the funds appropriated by this Act, not less than $180,000,000 shall be made available to support policies and programs in developing countries that directly (1) promote a wide range of energy conservation, energy efficiency and clean energy programs and activities, including the transfer of clean and environmentally sustainable energy technologies; (2) measure, monitor, and reduce greenhouse gas emissions; (3) increase carbon sequestration activities; and (4) enhance climate change mitigation and adaptation programs.

(b) CLIMATE CHANGE REPORT.—Not later than 45 days after the date on which the President's fiscal year 2006 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2005, including an accounting of expenditures by agency with each agency identifying climate change activities and associated costs by line item as presented in the President's Budget Appendix; and

(2) all fiscal year 2004 obligations and estimated expenditures, fiscal year 2005 estimated expenditures and estimated obligations, and fiscal year 2006 requested funds by the United States Agency for International Development, by country and central program, for each of the following: (i) to promote the transfer and deployment of a wide range of United States clean energy and energy efficiency technologies; (ii) to assist in the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions; (iii) to promote carbon capture and sequestration measures; (iv) to help meet such countries' responsibilities under the Framework Convention on Climate Change; and (v) to develop assessments of the vulnerability to impacts of climate change and mitigation and adaptation response strategies.

CENTRAL ASIA

SEC. 5070. (a) Funds appropriated by this Act may be made available for assistance for the central Government of Uzbekistan only if the

Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the ''Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America'', including respect for human rights, establishing a genuine multi-party system, and ensuring free and fair elections, freedom of expression, and the independence of the media.

(b) Funds appropriated by this Act may be made available for assistance for the Government of Kazakhstan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Kazakhstan has made significant improvements in the protection of human rights during the preceding 6 month period.

(c) The Secretary of State may waive subsection (b) if he determines and reports to the Committees on Appropriations that such a waiver is in the national security interest of the United States.

(d) Not later than October 1, 2005, the Secretary of State shall submit a report to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives describing the following:

(1) The defense articles, defense services, and financial assistance provided by the United States to the countries of Central Asia during the 6-month period ending 30 days prior to submission of such report.

(2) The use during such period of defense articles, defense services, and financial assistance provided by the United States by units of the armed forces, border guards, or other security forces of such countries.

(e) For purposes of this section, the term ''countries of Central Asia'' means Uzbekistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.

EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTH EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

SEC. 5071. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during fiscal year 2005, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

DISABILITY RIGHTS

SEC. 5072. (a) Of the funds appropriated by this Act under the heading ''Economic Support Fund'', and in addition to funds made available pursuant to section 5026(c), not less than $5,000,000 shall be made available for a Fund for Inclusion, Leadership, and Human Rights of People with Disabilities, to be administered by the Bureau of Democracy, Human Rights, and Labor, Department of State, in consultation with the Administrator of the United States Agency for International Development (''USAID''): Provided, That such funds should be made available as grants to nongovernmental organizations that work on behalf of people with disabilities in developing countries: Provided further, That not to exceed 20 percent of such funds should be made available for a Disability Rights Fellowship Program at the Department of State and USAID, including the cost of necessary administrative and salary expenses.

(b) The Secretary of State and the USAID Administrator shall designate within their respective agencies an individual to serve as ''Disability Advisor'', whose function it shall be to ensure that disability rights are addressed, where appropriate, in United States policies and programs.

(c) Funds made available under subsection (a) shall be made available for an international conference on the needs of people with disabilities, including disability rights, advocacy and access.

(d) The Secretary of State, the Secretary of the Treasury, and the USAID Administrator shall seek to ensure that the needs of people with disabilities are addressed, where appropriate, in democracy, human rights, and rule of law programs, projects and activities supported by the Department of State, Department of the Treasury, and USAID.

(e) The USAID Administrator shall seek to ensure that programs, projects and activities administered by USAID comply fully with USAID's ''Policy Paper: Disability'' issued on September 12, 1997: Provided, That not later than 90 days after enactment of this Act, USAID shall implement procedures to require that prospective grantees seeking funding from USAID specify, when relevant, how the proposed program, project or activity for which funding is being requested will protect the rights and address the needs of persons with disabilities.

ZIMBABWE

SEC. 5073. The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans or grants, to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association.

TIBET

SEC. 5074. (a) The Secretary of the Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to support projects in Tibet if such projects do not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.

(b) Notwithstanding any other provision of law, not less than $4,000,000 of the funds appropriated by this Act under the heading ''Economic Support Fund'' shall be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China, and not less than $250,000 shall be made available to the National Endowment for Democracy for programs and activities relating to Tibet.

INDONESIA

SEC. 5075. (a) Funds appropriated by this Act under the heading ''Foreign Military Financing Program'' may be made available for assistance for Indonesia, and licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the President certifies to the appropriate congressional committees that—

(1) the Indonesian Armed Forces are not committing gross violations of human rights;

(2) the Indonesia Minister of Defense is suspending from the Armed Forces those members, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups;

(3) the Indonesian Government is prosecuting those members of the Indonesian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups, and is punishing those members of the Indonesian Armed Forces found to have committed such violations of human rights or to have aided or abetted militia groups;

(4) the Indonesian Armed Forces are cooperating with civilian prosecutors and judicial authorities in Indonesia and with the joint United Nations-East Timor Serious Crimes Unit (SCU) in such cases (including extraditing those indicted by the SCU to East Timor and providing access to witnesses, relevant documents, and other requested information); and

(5) the Minister of Defense is making publicly available audits of receipts and expenditures of the Indonesian Armed Forces.

(b) Funds appropriated under the heading ''International Military Education and Training'' may be made available for assistance for Indonesia if the Secretary of State determines and reports to the Committees on Appropriations that the Indonesian Government and Armed Forces are cooperating with the Federal Bureau of Investigation's investigation into the August 31, 2002 murders of two American citizens and one Indonesian citizen in Timika, Indonesia.

UNIVERSITY PROGRAMS

SEC. 5076. Of the funds appropriated by this Act under the headings ''Child Survival and Health Programs Fund'', ''Development Assistance'', ''Economic Support Fund'', ''Assistance for Eastern Europe and the Baltic States'', and ''Assistance for the Independent States of the Former Soviet Union'', $40,000,000 shall be made available to the Office of the Higher Education Community Liaison in the Bureau for Economic Growth, Agriculture and Trade of the United States Agency for International Development and used for projects and activities of United States-based colleges and universities: Provided, That these funds shall be in addition to funds otherwise available under this Act for such programs.

NIGERIA

SEC. 5077. The President shall submit a report to the Committees on Appropriations describing the involvement of the Nigerian Armed Forces in the incident in Benue State, the measures that are being taken to bring such individuals to justice, and whether any Nigerian Armed Forces units involved with the incident in Benue State are receiving United States assistance.

DISCRIMINATION AGAINST MINORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION

SEC. 5078. None of the funds appropriated under this Act may be made available for the Government of the Russian Federation, after 180 days from the date of the enactment of this Act, unless the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation has implemented no statute, executive order, regulation or similar government action that would discriminate, or which has as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

NICARAGUA AND GUATEMALA

SEC. 5079. (a) Of the funds appropriated under the headings ''Development Assistance'' and ''Child Survival and Health Programs Fund'', not less than $36,000,000 shall be made available for assistance for Nicaragua and not less than $23,000,000 shall be made available for assistance for Guatemala.

(b) Not to exceed $2,000,000 in prior year ''Military Assistance Program'' funds that are available for Guatemala may be made available for non-lethal defense items for Guatemala if the Secretary of State certifies to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House that—

(1) the role of the Guatemalan military has been limited, both in doctrine and in practice, to only those activities in defense of Guatemala's sovereignty and territorial integrity that are permitted by the 1996 Peace Accords, and the Government of Guatemala is taking steps to amend Article 244 of the Constitution to reflect such changes;

(2) the Guatemalan military is cooperating with civilian judicial authorities, including providing unimpeded access to witnesses, documents and classified intelligence files, in investigations and prosecutions of military personnel who have been implicated in human rights violations and other criminal activity;

(3) the Government of Guatemala is actively working with the United Nations to resolve legal impediments to the establishment of the Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (CICIACS), so that CICIACS can effectively accomplish its mission of investigating and bringing to justice illegal groups and members of clandestine security organizations;

(4) the Government of Guatemala is continuing its efforts to make its military budget process transparent and accessible to civilian authorities and to the public of present and past expenditures;

(5) the Government of Guatemala has committed to facilitate the prompt establishment of an office in Guatemala of the United Nations High Commissioner for Human Rights; and

(6) the Government of Guatemala is taking steps to increase its efforts to combat narcotics trafficking and organized crime.

WAR CRIMES IN AFRICA

SEC. 5080. (a) The Congress recognizes the important contribution that the democratically elected Government of Nigeria has played in fostering stability in West Africa.

(b) The Congress reaffirms its support for the efforts of the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL) to bring to justice individuals responsible for war crimes and crimes against humanity in a timely manner.

(c) Funds appropriated by this Act, including funds for debt restructuring, may be made available for assistance to the central government of a country in which individuals indicted by ICTR and SCSL are credibly alleged to be living, if the Secretary of State determines and reports to the Committees on Appropriations that such government is cooperating with ICTR and SCSL, including the surrender and transfer of indictees in a timely manner: Provided, That this subsection shall not apply to assistance provided under section 551 of the Foreign Assistance Act of 1961 or to project assistance under title II of this Act: Provided further, That the United States shall use its voice and vote in the United Nations Security Council to fully support efforts by ICTR and SCSL to bring to justice individuals indicted by such tribunals in a timely manner.

(d) The prohibition in subsection (c) may be waived on a country by country basis if the President determines that doing so is in the national security interest of the United States: Provided, That prior to exercising such waiver authority, the President shall submit a report to the Committees on Appropriations, in classified form if necessary, on (1) the steps being taken to obtain the cooperation of the government in surrendering the indictee in question to SCSL or ICTR; (2) a strategy for bringing the indictee before ICTR or SCSL; and (3) the justification for exercising the waiver authority.

ADMISSION OF REFUGEES

SEC. 5081. (a) The Secretary of State shall utilize private voluntary organizations with expertise in the protection needs of refugees in the processing of refugees overseas for admission and resettlement to the United States, and shall utilize such agencies in addition to the United Nations High Commissioner for Refugees in the identification and referral of refugees.

(b) The Secretary of State should maintain a system for accepting referrals of appropriate candidates for resettlement from local private, voluntary organizations and work to ensure that particularly vulnerable refugee groups receive special consideration for admission into the United States, including—

(1) long-stayers in countries of first asylum;

(2) unaccompanied refugee minors;

(3) refugees outside traditional camp settings; and

(4) refugees in woman-headed households.

(c) The Secretary of State shall give special consideration to—

(1) refugees of all nationalities who have close family ties to citizens and residents of the United States; and

(2) other groups of refugees who are of special concern to the United States.

(d) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps that have been taken to implement this section.

CODE OF CONDUCT

SEC. 5082. (a) None of the funds made available by title II under the heading ''Migration and Refugee Assistance'' or ''Transition Initiatives'' to provide assistance to refugees or internally displaced persons may be provided to an organization that has failed to adopt a code of conduct consistent with the Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises six core principles for the protection of beneficiaries of humanitarian assistance.

(b) In administering the amounts made available for the accounts described in subsection (a), the Secretary of State and Administrator of the United States Agency for International Development shall incorporate specific policies and programs for the purpose of identifying specific needs of, and particular threats to, women and children at the various stages of humanitarian emergencies, especially at the onset of such emergency.

DISASTER SURGE CAPACITY

SEC. 5083. Funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961 may be used, in addition to funds otherwise available for such purposes, for the cost (including the support costs) of individuals detailed to or employed by the United States Agency for International Development whose primary responsibility is to carry out programs to address natural or manmade disasters or programs under the heading ''Transition Initiatives''.

DENIAL OF VISAS TO CORRUPT OFFICIALS

SEC. 5084. Not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations setting forth procedures and guidelines for (1) implementing the President's Proclamation dated January 12, 2004, which established a policy of denying entry into the United States to corrupt current and former public officials and certain members of their families; and (2) for making public the names of those individuals who have been denied entry as a result of such Proclamation.

ASSISTANCE FOR VICTIMS OF TORTURE

SEC. 5085. Of the funds appropriated by this Act under the headings ''Development Assistance'' and ''Economic Support Fund'', not less than $15,000,000 shall be made available for programs and activities to assist victims of torture and cruel, inhuman or degrading treatment, including for centers for victims of torture that provide services consistent with the goals of the Torture Victims Relief Reauthorization Act of 1999.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT PILOT MANAGEMENT INITIATIVE

SEC. 5086. (a) PILOT ACTIVITIES.—Subject to subsection (b), the Administrator of the United States Agency for International Development may use up to $25,000,000 of the funds appropriated to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated to carry out the Support for East European Democracy (SEED) Act of 1989, to pay administrative costs for fiscal year 2005, including salary, benefits, allowances, and overseas support costs of employees, of up to 2 overseas missions or offices of the agency.

(b) CONDITIONS.—

(1) The authority of subsection (a) may be exercised only if the Administrator submits a plan approved by the Office of Management and Budget and the Department of State to the Committees on Appropriations, that—

(A) identifies the overseas missions or offices for which this authority will be exercised, and explains the process by which these missions or offices were selected;

(B) contains separate estimates of the administrative costs for fiscal year 2005 of the different types of project assistance and nonproject assistance programs administered by such mission or office; and

(C) describes the bases for such estimates.

(2) Subsequent reports shall be submitted to the Committees on Appropriations by the Administrator at least every 60 days until January 15, 2006 to describe any changes made to the plan as originally submitted or later modified.

(c) INITIAL CHARGES.—Funds appropriated under the heading ''Operating Expenses of the United States Agency for International Development'' for fiscal year 2005 may be initially charged for the purposes of this section.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT HIRING AUTHORITY

SEC. 5087. (a) USE OF PROGRAM FUNDS.—Up to $12,500,000 of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 may be transferred to and consolidated with funds appropriated under the heading, ''Operating Expenses of the United States Agency for International Development'' (USAID), and used by USAID to appoint and employ full-time Civil Service and full-time Foreign Service personnel, including to pay the costs of salaries, benefits, and allowances of such personnel: Provided, That the authority of this section may be used to appoint and employ not more than 50 individuals.

(b) CONDITIONS.—The authority of this section—

(1) may not be used until USAID completes a comprehensive workforce analysis that is approved by the USAID Administrator and submitted to the Office of Management and Budget and the Office of Personnel Management;

(2) may only be used to meet shortages in technical skill areas identified in the approved workforce analysis;

(3) may only be used to the extent that an equivalent number of positions that are filled by personal service contractors or other employees of USAID, who are compensated with funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, are eliminated; and

(4) may only be exercised after notification of the Committees on Appropriations and the Office of Management and Budget.

CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA

SEC. 5088. Section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2370(a)) is amended by adding at the end the following new subsection:

''(i) CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA.—

''(1) Any action of the types set forth in subparagraphs (A), (B), and (C) of subsection (a)(1) that was taken by the Government of Nicaragua during the period beginning on January 1, 1956, and ending on January 9, 2002, shall not be considered in implementing the prohibition under subsection (a) unless the action has been presented in accordance with the procedure set forth in paragraph (2).

''(2) An action shall be deemed presented for purposes of paragraph (1) if it is—

''(A) in writing; and

''(B) received by the United States Department of State on or before 120 days after the date specified in paragraph (3) at—

''(i) the headquarters of the United States Department of State in Washington, D.C.; or,

''(ii) the Embassy of the United States of America to Nicaragua.

''(3) The date to which paragraph (2) refers is a date after enactment of this subsection that is specified by the Secretary of State, in the Secretary's discretion, in a notice published in the Federal Register.''.

OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK RESTRICTIONS

SEC. 5089. (a) LIMITATION ON USE OF FUNDS BY OPIC.—None of the funds made available in this Act may be used by the Overseas Private Investment Corporation to insure, reinsure, guarantee, or finance any investment in connection with a project involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(b) LIMITATION ON USE OF FUNDS BY THE EXPORT-IMPORT BANK.—None of the funds made available in this Act may be used by the Export-Import Bank of the United States to guarantee, insure, extend credit, or participate in an extension of credit in connection with the export of any goods to a country for use in an enterprise involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(c) REQUIREMENTS.—The requirements referred to in subsections (a) and (b) are that the country concerned is implementing the recommendations, obligations and requirements developed by the Kimberley Process on conflict diamonds.

SECURITY IN ASIA

SEC. 5090. (a) Of the funds appropriated under the heading ''Foreign Military Financing Program'', not less than the following amounts shall be made available to enhance security in Asia, consistent with democratic principles and the rule of law—

(1) $55,000,000 for assistance for the Philippines;

(2) $6,000,000 for assistance for Indonesia;

(3) $2,000,000 for assistance for Bangladesh;

(4) $1,500,000 for assistance for the Democratic Republic of Timor-Leste;

(5) $2,000,000 for assistance for Mongolia;

(6) $5,000,000 for assistance for Nepal;

(7) $2,500,000 for assistance for Thailand;

(8) $1,000,000 for assistance for Sri Lanka;

(9) $1,000,000 for assistance for Cambodia;

(10) $500,000 for assistance for Fiji; and

(11) $250,000 for assistance for Tonga.

(b) Funds made available for assistance for Indonesia pursuant to subsection (a) may be made available notwithstanding section 5075 of this Act: Provided, That such funds may only be made available to the Indonesian navy for the purposes of enhancing maritime security: Provided further, That sections 5075(a)(1) and (4) of this Act shall apply with respect to the Indonesia navy for purposes of this section: Provided further, That such funds shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

(c) Funds made available for assistance for Cambodia pursuant to subsection (a) shall be made available notwithstanding section 5054 of this Act: Provided, That such funds shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

(d) Funds made available for assistance for Nepal pursuant to subsection (a) may be made available if the Secretary of State reports to the Committees on Appropriations that the Government of Nepal is: (1) complying promptly with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders; (2) cooperating with the National Human Rights Commission of Nepal to resolve all cases of disappearances; and (3) granting the National Human Rights Commission of Nepal unimpeded access to places of detention: Provided, That the Secretary of State may waive the requirements of this subsection if he determines and reports to the Committees on Appropriations that to do so is in the security interests of the United States.

COOPERATION WITH CUBA ON COUNTER-NARCOTICS MATTERS

SEC. 5091. (a) Subject to subsection (b), of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'', $5,000,000 should be made available for the purposes of preliminary work by the Department of State, or such other entity as the Secretary of State may designate, to establish cooperation with appropriate agencies of the Government of Cuba on counter-narcotics matters, including matters relating to cooperation, coordination, and mutual assistance in the interdiction of illicit drugs being transported through Cuba airspace or over Cuba waters.

(b) The amount in subsection (a) shall not be available if the President certifies that—

(1) Cuba does not have in place appropriate procedures to protect against the loss of innocent life in the air and on the ground in connection with the interdiction of illegal drugs; and

(2) there is evidence of involvement of the Government of Cuba in drug trafficking.

HIPC DEBT REDUCTION AND TRUST FUND

SEC. 5092. (a) Section 801(b)(1) of Public Law 106–429 is amended—

(1) by inserting ''(i)'' after ''appropriated''; and

(2) by inserting before the period ''; and (ii) for fiscal years 2004–2006, not more than $150,000,000, for purposes of additional United States contributions to the HIPC Trust Fund administered by the Bank, which are authorized to remain available until expended''.

(b) Section 501(i) of Public Law 106–113 is amended by deleting ''2003–2004'' and inserting in lieu thereof ''2000–2006''.

ASSISTANCE TO MILLENNIUM CHALLENGE CANDIDATE COUNTRIES

SEC. 5093. Section 616(d) of the Millennium Challenge Act of 2003 (title VI of division D of Public Law 108–199) is amended to read as follows:

''(d) FUNDING.—For each of fiscal years 2004 and 2005 and every fiscal year thereafter, of the amounts appropriated pursuant to the authorization of appropriations under section 619(a), up to 10 percent is authorized to be made available to carry out this section.''.

CHERNOBYL NUCLEAR POWER PLANT

SEC. 5094. None of the funds appropriated under this Act may be made available for assistance for the central Government of the Russian Federation if the Secretary of State certifies and reports to the Committees on Appropriations that the central Government of the Russian Federation has not pledged or is not contributing funds or other significant resources for the construction of the new shelter over the Chernobyl nuclear power plant: Provided, That this provision shall not apply to democracy, rule of law, child survival and health, and environment programs.

DEBT RESTRUCTURING AUTHORITY

SEC. 5095. (a) Of the funds appropriated under the heading ''Iraq Relief and Reconstruction Fund'' in title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), $360,000,000 may be made available for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees for Iraq, without regard to the sectoral allocations and related provisos under that heading in such Act: Provided, That the authority of this section shall be used subject to prior consultation with the Committees on Appropriations: Provided further, That the obligation of funds pursuant to the authority provided in this section shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

(b) Title II, chapter 2 of Public Law 108–106 is amended under the heading ''Other Bilateral Economic Assistance'' by—

(1) in the first proviso, striking ''10 percent'' and inserting in lieu thereof ''20 percent''; and

(2) in the first proviso, striking ''by more than 20 percent'' and inserting in lieu thereof ''by more than 30 percent''.

(c) Notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq: Provided, That funds made available pursuant to the authority of this section shall be subject to the regular reprogramming notification procedures of the Committees on Appropriations.

COMPLIANCE WITH THE ALGIERS AGREEMENTS

SEC. 5096. None of the funds appropriated by this Act may be made available for assistance for the central Governments of Ethiopia or Eritrea unless the Secretary of State certifies and reports to the Committees on Appropriations that such government is taking steps to comply with the terms of the Algiers Agreements: Provided, That this section shall not apply to democracy, rule of law, child survival and health, basic education, and agriculture programs.

NORTH KOREA AND BURMA

SEC. 5097. None of the funds made available in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs as a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria may be made available for assistance for the Government of North Korea or the State Peace and Development Council in Burma, or affiliated groups and organizations.

THAILAND

SEC. 5098. (a) Funds appropriated by this Act that are available for the central Government of Thailand may be made available if the Secretary of State determines and reports to the Committees on Appropriations that the central Government of Thailand (1) supports the advancement of democracy in Burma; (2) is not hampering the delivery of humanitarian and other assistance to people in Thailand who have fled Burma; and (3) is not forcibly repatriating Burmese to Burma.

(b) Notwithstanding subsection (a), of the funds appropriated by this Act, not less than $4,000,000 shall be made available to promote democracy and human rights in Thailand, and not less than $1,000,000 shall be made available to promote and protect an independent media in Thailand.

(c) The Secretary of State may waive subsection (a) if he determines and reports to the Committees on Appropriations that to do so is in the national security interest of the United States.

ADMINISTRATIVE PROVISIONS RELATED TO MULTILATERAL DEVELOPMENT BANKS

SEC. 5099. (a) Section 1307 of the International Financial Institutions Act (22 U.S.C. 262m–7) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) ASSESSMENT REQUIRED BEFORE FAVORABLE VOTE ON PROPOSAL.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development

bank not to vote in favor of any proposal (including but not limited to any kind of proposed loan, credit, grant, guarantee, or policy) which would result or be likely to result in a significant impact on the environment, unless the Secretary, after consultation with the Secretary of State and the Administrators of the United States Agency for International Development and the Environmental Protection Agency, determines that for at least 120 days before the date of the vote—

''(1) an assessment analyzing the environmental impacts of the proposal, including associated and cumulative impacts, and of alternatives to the proposal, has been completed by the borrower or the bank, and has been made available to the board of directors of the bank;

''(2) the assessment (or a comprehensive summary of the assessment) and copies of any related draft loan, credit, grant, guarantee, or policy (with proprietary information redacted) have been made available to the bank, affected groups, and local nongovernmental organizations; and

''(3) environment and development agencies of the member countries of the bank are notified that the assessment (or a comprehensive summary of the assessment) and any related draft loan, credit, grant, guarantee, or policy are available on the bank's website.''; and

(2) by striking subsection (g) and inserting the following:

''(g) MULTILATERAL DEVELOPMENT BANK DEFINED.—In this title, the term 'multilateral development bank' means the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the African Development Bank, the African Development Fund, the Asian Development Bank, the North American Development Bank, the Inter-American Development Bank, the Inter-American Investment Corporation, any other institution (other than the International Monetary Fund) specified in section 1701(c)(2), and any subsidiary of any such institution, and in section 1504, the term 'multilateral development institution' includes the North American Development Bank and any such subsidiary.''

(b) Section 1303(b) of the International Financial Institutions Act (22 U.S.C. 262m–7) is amended by striking ''International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank'' and inserting in lieu thereof ''multilateral development banks''.

(c) Not more than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall issue temporary regulations to implement title XIII of the International Financial Institutions Act, as amended, and, after public notice and comment, final regulations not more than one year thereafter.

VIETNAMESE REFUGEES

SEC. 5100. (a) ELIGIBILITY FOR IN-COUNTRY REFUGEE PROCESSING IN VIETNAM.—For purposes of eligibility for in-country refugee processing for nationals of Vietnam during fiscal years 2004 and 2005, an alien described in subsection (b) shall be considered to be a refugee of special humanitarian concern to the United States (within the meaning of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157)) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b) ALIENS COVERED.—An alien described in this subsection is an alien who—

(1) is the son or daughter of a qualified national;

(2) is 21 years of age or older; and

(3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City.

(c) QUALIFIED NATIONAL.—The term ''qualified national'' in subsection (b)(1) means a national of Vietnam who—

(1)(A) was formerly interned in a re-education camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

(B) is the widow or widower of an individual described in subparagraph (A);

(2)(A) qualified for refugee processing under the Orderly Departure Program re-education subprogram; and

(B) is or was accepted under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City—

(i) for resettlement as a refugee; or

(ii) for admission to the United States as an immediate relative immigrant; and

(3)(A) is presently maintaining a residence in the United States or whose surviving spouse is presently maintaining such a residence; or

(B) was approved for refugee resettlement or immigrant visa processing and is awaiting departure formalities from Vietnam or whose surviving spouse is awaiting such departure formalities.

EXTRACTION OF NATURAL RESOURCES

SEC. 5101. (a) The Secretary of the Treasury shall inform the managements of the international financial institutions and the public that it is the policy of the United States that any assistance by such institutions (including but not limited to any loan, credit, grant, or guarantee) for the extraction and export of oil, gas, coal, timber, or other natural resource should not be provided unless the government of the country has in place or is taking the necessary steps to establish functioning systems for (1) accurately accounting for revenues and expenditures in connection with the extraction and export of the type of natural resource to be extracted or exported; (2) the independent auditing of such accounts and the widespread public dissemination of the audits; and (3) verifying government receipts against company payments including widespread dissemination of such payment information in a manner that does not create competitive disadvantage or disclose proprietary information.

(b) Not later than 180 days after the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committees on Appropriations describing, for each international financial institution, the amount and type of assistance provided, by country, for the extraction and export of oil, gas, coal, timber, or other national resource since September 30, 2004.

ASSISTANCE FOR FOREIGN NONGOVERNMENTAL ORGANIZATIONS

SEC. 5102. Notwithstanding any other provision of law, regulation, or policy, in determining eligibility for assistance authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), foreign nongovernmental organizations—

(1) shall not be ineligible for such assistance solely on the basis of health or medical services including counseling and referral services, provided by such organizations with non-United States Government funds if such services do not violate the laws of the country in which they are being provided and would not violate United States Federal law if provided in the United States; and

(2) shall not be subject to requirements relating to the use of non-United States Government funds for advocacy and lobbying activities other than those that apply to United States nongovernmental organizations receiving assistance under part I of such Act.

SUDAN

SEC. 5103. (a) Of the funds appropriated under the heading ''Iraq Relief and Reconstruction Fund'' of Public Law 108–106, $150,000,000 shall be made available by transfer for necessary expenses of the United States Agency for International Development to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 to respond to or prevent unforeseen complex foreign crises and to meet urgent humanitarian needs in Darfur, Sudan and the region.

(b) The entire amount in subsection (a) is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

(c) That such amount shall be available only to the extent that an official budget request for $150,000,000 that includes designation of the amount as an emergency requirement, as defined in S. Con. Res. 95 (108th Congress), is transmitted by the President to the Congress.

(d) If the President does not submit an official budget request required by subsection (c) within 30 days of enactment of the Act, the funds made available under this section shall revert back to the ''Iraq Relief and Reconstruction Fund'' of Public Law 108–106.

(e) It is the Sense of the Senate that the transfer authority that Congress included under chapter 2 of title II of Public Law 108–106, which authorized the transfer of up to 0.5 percent from funds made available under Chapter 2 for Sudan, should be triggered to provide funds to address the humanitarian disaster in Darfur, Sudan and region.

ADDITIONAL FUNDS FOR THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA

SEC. 5104. In addition, $150,000,000 is appropriated for ''Child Survival and Health Programs Fund'', which shall be made available for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, in accordance with the provisions applicable to the Fund under that heading in this Act: Provided, That funds appropriated by this section are designated by the Congress as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287: Provided further, That such funds shall be divided evenly between malaria control programs and HIV/AIDS drug procurement and treatment: Provided further, That the malaria funds shall be only used in low income and least developed countries for grants (to be awarded through competitive procedures) for country malaria control programs in which not less than 50 percent of the grant amounts shall support indoor residual spraying interventions: Provided further, That no user fees or other fees may be charged by the government of a country concerned under a program funded utilizing such amount for any malaria intervention under such program: Provided further, That none of the funds appropriated by this section shall be expended for assistance for Burma or for any country officially designated by the United States Department of State as a state sponsor of terrorism.

SUPPORT FOR AFRICAN UNION MISSION IN DARFUR, SUDAN

SEC. 5105. (a) In addition, $75,000,000 is appropriated to the Department of State to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 for the purpose of providing equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union mission in Darfur, Sudan.

(b) The entire amount in subsection (a) is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

(c) That such amount shall be available only to the extent that an official budget request for $75,000,000 that includes designation of the amount as an emergency requirement, as defined in S. Con. Res. 95 (108th Congress), as made applicable to the Senate by section 14007 of Public Law 108–287, is transmitted by the President to the Congress.

IMPROVING SECURITY IN HAITI

SEC. 5106. (a) Congress makes the following findings:

(1) Haiti is important to the national security interests of the United States.

(2) The United States has contributed significant assistance to support the political, economic and social development of Haiti with limited and uneven results.

(3) The Haitian people are currently suffering from extreme poverty, threats from armed groups who control large areas of the country, and violations of human rights, including kidnappings.

(4) As of September 22, 2004, Tropical Storm Jeanne killed more than 1,000 people, with many hundreds remaining missing, in Gonaives and other areas of Haiti, and caused severe destruction of property.

(5) The Interim Government of Haiti under Prime Minister Gerard Latortue is attempting to initiate much needed reforms and bring political stability to the country prior to the reintroduction of anticipated democratically-elected governance in 2005.

(6) On July 19–20, 2004, the international community pledged $1,085,000,000 in assistance for Haiti, including $230,000,000 from the United States.

(7) The immediate challenges facing Haiti are (a) addressing the insecurity and instability caused by armed groups who are undermining the ability of the Interim Government of Haiti to combat poverty and create the conditions for free and fair elections; (b) establishing the rule of law; and (c) economic reactivation and job creation.

(8) On April 30, 2004, the United Nations Security Council authorized the United Nations Stabilization Mission in Haiti (MINUSTAH) 6,700 military personnel and 1,622 civilian police personnel, but as of July 31, 2004, only 2,259 military personnel and 224 civilian police personnel had been deployed.

(9) MINUSTAH is essential to efforts to restore stability and security, including countering the activities of rebels, ex-combatants and other armed groups.

(b) Congress—

(1) appreciates the contributions of military and civilian police personnel to MINUSTAH by Brazil and other nations;

(2) calls upon the Secretary of State to redouble his efforts to encourage contributions of additional personnel to MINUSTAH;

(3) calls upon MINUSTAH to assertively fulfill its mandate under Chapter VII of the United Nations Charter to ''ensure a secure and stable environment within which the constitutional and political process in Haiti can take place'', by confronting and resolving security threats to the Interim Government of Haiti and the people of Haiti;

(4) calls upon the United States and the international community, including the United Nations and the Organization of American States, to expedite the disbursement of sufficient assistance to enable the Interim Government of Haiti to—

(A) address Haiti's urgent humanitarian needs, including to assist Haitians affected by Tropical Storm Jeanne;

(B) increase employment and promote economic development; and

(C) carry out democratic elections in 2005;

(5) calls upon the Interim Government of Haiti to make every effort to ensure that all political parties can participate fully and freely in the electoral process; and

(6) notes that the failure to establish a secure and stable environment and to conduct credible and inclusive elections will likely result in Haiti's complete transition from a failed state to a criminal state.

REPORT ON GLOBAL POVERTY AND NATIONAL SECURITY

SEC. 5107. Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in consultation with other relevant Federal agencies, shall submit a report to Congress on the impact of global poverty on the national security of the United States, which shall include: (1) an evaluation of the effects of global poverty on United States efforts to promote democracy, equitable economic development, and the rule of law in developing countries; (2) a description of the relationship between global poverty and political instability, civil conflict, and international terrorism; and (3) recommendations for improving the ability of the United States Government to effectively address the problems in (1) and (2) by combating global poverty, including possible organizational changes within the Federal government.

REPORT ON EDUCATION REFORM IN PAKISTAN

SEC. 5108 (a) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees—

(1) describing the strategy of the Government of Pakistan to implement education reform in Pakistan, and the strategy of the Government of the United States to assist Pakistan to achieve that objective;

(2) providing information on the amount of funding—

(A) obligated and expended by the Government of Pakistan and the Government of the United States, respectively, for education reform in Pakistan, since January 1, 2002;

(B) expected to be provided by the Government of Pakistan and the Government of the United States, respectively, for education reform in Pakistan, including any assistance to be provided by the United States pursuant to the commitment of President Bush to provide $3,000,000,000 in assistance to Pakistan during fiscal year 2005 through fiscal year 2009; and

(3) discussing progress made in achieving education reform in Pakistan since January 1, 2002.

(b) DEFINITIONS.—In this section—

(1) the term ''appropriate congressional committees'' means—

(A) the Committees on Appropriations and International Relations of the House of Representatives; and

(B) the Committees on Appropriations and Foreign Relations of the Senate;

(2) the term ''education reform'' includes efforts to expand and improve the secular education system in Pakistan, and to develop and utilize a moderate curriculum for private religious schools in Pakistan.

UNITED NATIONS RESOLUTIONS ON ISRAEL

SEC. 5109. (a) The Senate makes the following findings:

(1) The United Nations General Assembly and United Nations Security Council have over a period of many years engaged in a pattern of enacting measures and resolutions castigating and condemning the state of Israel.

(2) Despite the myriad of challenges facing the world community, the United Nations General Assembly has devoted a disproportionate amount of time and resources to castigating Israel.

(3) During the fifty-seventh session of the United Nations General Assembly, the General Assembly adopted a total of 80 resolutions by roll call vote, 23 of which related to Israel and were opposed by the United States.

(4) The United States has a responsibility to promote fair and equitable treatment of all nations in the context of international organizations, including the United Nations.

(b) It is the sense of the Senate that the President, the United States Permanent Representative to the United Nations, and other appropriate United States officials should—

(1) work to dissuade member states of the United Nations from voting in support of United Nations General Assembly resolutions that unfairly castigate Israel; and

(2) promote within the United Nations General Assembly more balanced and constructive approaches to resolving the conflict in the Middle East.

(c) Section 406(b)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 22 U.S.C. 2414a(b)(4)) is amended by inserting after ''United States'' the following: '', including a separate listing of all plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States''.

SENSE OF THE SENATE ON VIOLATIONS OF RELIGIOUS FREEDOM IN SAUDI ARABIA

SEC. 5110. It is the sense of the Senate that, in light of the designation of Saudi Arabia as a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated particularly severe violations of religious freedom, the President should—

(1) under the authority in section 402(c)(2) and 405(c) of such Act, negotiate a binding agreement with the Government of Saudi Arabia that requires such Government to phase out any program, policy, or practice that contributes to the violations of religious freedom occurring or being tolerated in Saudi Arabia; or

(2) take an action described in one of the paragraphs (9) through (15) of 405(a) of such Act or a commensurate action under the authority in section 402(c)(1)(B) of such Act with respect to Saudi Arabia that the President determines is appropriate after consideration of the recommendations for United States policy made by the United States Commission on International Religious Freedom.

SUPPORT FOR THE POLITICAL INDEPENDENCE OF LEBANON

SEC. 5111. (a) The Senate makes the following findings:

(1) The United States has long supported the sovereignty, territorial integrity, and political independence of Lebanon and the sole and exclusive exercise by the Government of Lebanon of national governmental authority throughout that country.

(2) The continued presence in Lebanon of nongovernmental armed groups and militias, including Hizbollah, prevents the Government of Lebanon from exercising its full sovereignty over all territory in that country.

(3) The Government of Syria has had a military presence in Lebanon since 1976, and maintains approximately 20,000 troops in Lebanon.

(4) The Government of Syria continues to violate United Nations Security Council Resolution 520, adopted in 1982, which demands that ''all non-Lebanese forces'' leave Lebanon.

(5) Syria has, since 1979, been labeled by the Department of State as a state sponsor of terrorism.

(6) President George W. Bush signed an Executive order on May 11, 2004, that implements sanctions against the Government of Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175; 22 U.S.C. 2151 note).

(7) United Nations Security Resolution 1559, approved on September 2, 2004, expressed support for a free and fair electoral process in the upcoming presidential election in Lebanon conducted according to constitutional rules adopted in Lebanon without foreign interference or influence.

(8) On September 3, 2004, the Government of Syria, according to numerous reports, exerted undue influence upon government officials in Lebanon to amend the constitution to extend

the term of the President of Lebanon, Emile Lahoud, who is supported by the Government of Syria.

(b) It is the sense of the Senate that—

(1) the United Nations should seek a firm, negotiated schedule for the complete withdrawal from Lebanon of Syria armed forces in order to facilitate the restoration of the sovereignty, territorial integrity, and political independence of Lebanon;

(2) the Government of Syria should immediately withdraw its troops from Lebanon in accordance with United Nations resolutions;

(3) the Government of Syria should—

(A) cease its support and armament of terror groups such as Hizbollah; and

(B) facilitate efforts by the government and armed forces of Lebanon to disarm all nongovernmental armed groups and militias located in Lebanon and to extend central government authority throughout Lebanon; and

(4) the Government of Syria should cease efforts to derail the democratic process in Lebanon and to interfere with the legitimate electoral process in that country.

This Act may be cited as the ''Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005''.

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Maine.

Ms. SNOWE. Mr. President, I rise today to speak to the monumental issue before us, the most profound, sweeping reform of our entire intelligence community in nearly 60 years, 3 years after the worst attack ever on American soil. As a member of the Senate Select Committee on Intelligence, I welcome this opportunity to discuss critical issues I believe must be addressed this year.

First, I thank the majority leader for his timely action and steadfast leadership ensuring that we have this legislation before us and we will complete action before we adjourn.

I also want to recognize my colleague, the chair of the Governmental Affairs Committee, the Senator from Maine, Ms. COLLINS, for her exceptional and tireless work over the past 2 months to produce this comprehensive legislation to reform our intelligence community, to rightly reflect the sense of urgency that this legislation deserves and certainly one we should consider. I applaud her for undertaking this historic effort and for guiding this legislation through her committee on a bipartisan basis.

As well, I want to express my appreciation to the ranking member, Senator LIEBERMAN, for his efforts in bringing us to this day. It truly was an enormous undertaking that was assigned to the Governmental Affairs Committee, and I want to thank them for all they have done to begin this debate this week on the intelligence reform bill.

As we begin these deliberations, I cannot help but be reminded that while the intelligence community reform has unquestionably taken on a new urgency, it is simply not a new issue. Since the first Hoover Commission in 1949, studies have been conducted, commissions have been established, and reports have been issued on how best to structure our intelligence community. Yet in spite of the over 50 years of debate on this issue, it was the morning of September 11 and all that followed that has resulted in us being where we are today on the Senate floor debating reform legislation and poised to accomplish what has alluded so many for so long.

To say that September 11 is a seminal moment for our Nation certainly would be an understatement. Indeed, that day will forever be etched in our minds and our national consciousness, just as it always will forever change the way we view the world. It was that day, more than any before, that catapulted us into a new era in which our Nation faced very different, more pervasive and inimical threats. It was a day that revealed in the starkest terms the truism that intelligence is now and must always be our best and first line of defense against a committed enemy who knows no borders, wears no uniform, and pledges allegiance only to causes and not states. It was a day that has proven that the intelligence community's old structure and old ways of doing business are insufficient for confronting the challenges of the 21st century.

But if September 11 provided the catalyst for reform, the failures in the prewar intelligence on Iraq's weapons of mass destruction programs provided even greater impetus for a major overhaul of the U.S. intelligence community, and that time for change is now upon us.

For over a year, the Senate Select Committee on Intelligence has focused intently on reviewing the prewar intelligence of Iraq's weapons of mass destruction program, the regime's ties to terrorism, Saddam Hussein's human rights abuses, and his regime's impact on regional stability. After the indepth analysis of 30,000 pages of intelligence assessment, source reporting, interviewing more than 200 individuals, the committee produced a report in early July that indisputably begs for intelligence community restructuring.

The report revealed a stunning lack of accountability and sound hands-on management practices throughout the community's chain of command. This lack of leadership and poor management allowed assumptions to go unchallenged, contributed to mischaracterizations of Iraq's weapons of mass destruction programs, and led to significant lapses in the intelligence community's responsibility to convey the uncertainties behind their assessments. In short, there was a lack of analytic rigor performed on one of the most critical and defining issues spanning more than a decade.

During our review, we learned that much of what analysts knew about Iraq's weapons of mass destruction program predated the gulf war, leaving them with little direct knowledge of the current state of those programs. The ''group think'' mentality that dominated analysis is just one of the intelligence failures this report illuminates.

Intelligence community managers, collectors, and analysts believed that Iraq had weapons of mass destruction, a notion that dates back to Iraq's pre-1991 efforts to retain, build, and hide those programs, and in several circumstances the intelligence community made intelligence information fit into preconceived notions about Iraq's weapons of mass destruction programs. From our review, we know the intelligence community relied on sources that supported its predetermined ideas, and we also know that there was no alternative analysis or ''red teaming'' performed on such a critical issue. We also now know that most of the key judgments in the national intelligence estimate were overstated or were not supported by the underlying intelligence.

For example, the intelligence community insists that Iraq had chemical weapons. Yet this was based on a single stream of reporting. The intelligence community based its assessment that Iraq's biological warfare program was larger and more advanced than before the gulf war largely on a single source to whom the intelligence community never had direct access and with whom there were credibility problems. The intelligence community judged that Iraq was developing a UAV probably intended to deliver biological weapons. Yet there was significant evidence clearly indicating that nonbiological weapons delivery missions were more likely.

The committee's report also notes the lack of human intelligence on the Iraqi target and reveals, as the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, also documented, that our intelligence community is averse to undertaking higher risk human intelligence operations, compelling our analysts to rely on inadequate, outdated, or unreliable intelligence.

The points raised form an inescapable indictment of the status quo. The facts speak for themselves, and they are a significant reason we are here today to debate issues of intelligence community reform. The men and women, the dedicated professionals of the intelligence community, who toil every day to protect our national security, must have a decisive, innovative, and centralized leadership and management structure as well as the requisite resources to perform this vital and often daunting task. While I acknowledge the need to be cautious and deliberate, in this era of unprecedented challenges, we must ensure our intelligence community is poised to confront these challenges, and we must act now. The status quo is clearly not an option.

On that note, I do happen to believe that we must create a national intelligence director and certainly that it

would be a significant leap forward, and that is why I commend the committee for embracing this type of reform.

I also commend Senator FEINSTEIN for her leadership on this issue, and I am pleased to have joined with her several months ago, before the release of the September 11 Commission Report, in championing this idea of establishing a critical position, to be filled by a single person, independent from the day-to-day responsibilities of running a single intelligence agency and whose sole responsibility is to lead and manage the intelligence community. I believe our perspectives on the Senate Intelligence Committee and the work we did for more than a year and a half on Iraq's weapons of mass destruction program gave impetus to this notion and this idea that we clearly had to embark on major restructuring of the intelligence community.

I happen to believe that creating this central position is a significant component in the larger imperative of overall intelligence community reform because it simply just does not make sense today to have one person who is the Director of the Central Intelligence Agency also responsible for the entire intelligence community of the other 14 agencies. Rather, we need a national intelligence director whose dedicated leadership will ensure that consistent priorities are set and implemented, and that all the gears of our intelligence gathering, analysis, and reporting are synchronized and not ad hoc.

In fact, Dr. David Kay, who is the former director of the Iraq Survey Group, said such management changes in the intelligence community could have resulted in a very different national intelligence estimate than we received on Iraq weapons of mass destruction program. He noted that failures of analytic tradecraft, culture, management, and mismanagement of the information flow could have been alleviated with proper management and leadership.

Indeed, I asked Dr. Kay when he came before the committee in August:

> We know what went wrong. Could it have been a very different product?
>
> Could we have had a very different product in the NIE, if we had changes, organizationally, that we are speaking of?

That is a question posed of Dr. Kay. He responded:

> It could have been a very different product, in my judgment.

That is a very telling and significant statement. He said the national intelligence estimate, the estimate upon which we predicated war, upon which we made our decisions, based on the assessments that were included in that national intelligence estimate, could have been a very different product if we had an entirely different type of organization within the intelligence community.

I happen to believe that creating a national intelligence director would also facilitate a better atmosphere of objectivity, an element that has been sorely lacking in the intelligence community. Separating the Director of the Central Intelligence Agency from one specific organization would better allow the other 14 intelligence community agencies to be heard in the debates about the validity and veracity of intelligence information and analyses that have a direct effect on our national security.

A director of national intelligence would level the playing field when it comes to the competition of ideas and intelligence analysis. Currently, as the head of both the CIA, as well as the intelligence community, the DCI is the principal intelligence adviser to the President. This provides the CIA with unique access to policymakers. Although the goal of this structure was to coordinate the disparate elements of the intelligence community in order to provide the most accurate and objective analysis, this report reveals that in practice this arrangement actually undermines the provision of objective analysis.

Indeed, this committee's report on Iraq concluded:

> The CIA continues to excessively compartment sensitive human intelligence reporting and fails to share important information about [human intelligence] reporting and sources with Intelligence Community analysts who have a need to know.

Further the report concluded that:

> The CIA, in several significant instances, abused its unique position in the [intelligence community], particularly in terms of information sharing, to the detriment of the [intelligence community's] prewar analysis concerning Iraq's [weapons of mass destruction] programs.

One agency should not be able to control the presentation of information to policymakers, nor should an agency be able to exclude analyses from the other agencies. As the committee's report on the prewar intelligence on Iraq reveals, the Director of Central Intelligence was not aware of dissenting opinions within the intelligence community on the potential use for the aluminum tubes, despite the fact that the intelligence community had been debating the issue for well more than a year.

Since the Director was not aware of all the views of the intelligence agencies, he could only pass on the CIA's view to the President. This has to change. Policymakers must be aware of all views of all intelligence agencies on such crucial matters.

Some might say consolidating the leadership of the entire intelligence community under a national intelligence director might actually stifle healthy competition, that central planning will deprive decisionmakers of a full range of intelligence. I echo what Chairman Kean and Vice Chairman Hamilton have said:

> Competitive analysis is very important . . . no one can claim that the current structure fosters competitive analysis. Look at the Senate report on group-think with regard to Iraq. The current system encourages, we believe, group-think. . . .

In my view, to accomplish the task we have just discussed, the national intelligence director should be equipped with the authority commensurate with the responsibilities with which he is vested. We can no longer afford to have the Intelligence Committee unable to direct those resources.

As the Chairman of the 9/11 Commission indicated—he said in response to another question I posed when he testified before the Intelligence Committee with regard to George Tenet raising the red flag about the threat from al-Qaida:

> . . . a problem we have of communication between agencies . . . one of the best illustrations that hit me when I first heard about it is in 1998, when [the Director of the Central Intelligence Agency] George Tenet got it. What we are suggesting, I guess, is if you had that coordination and that declaration of war had been made under the system we recommend, the military, the diplomatic side, the intelligence side, they all would have gotten it.

If you can imagine when the Director of the Central Intelligence Agency had been talking about a major threat to the United States back in 1998, raising a red flag, going around Washington talking to whomever in order to get attention, to draw attention to this tremendous threat that al-Qaida and Osama bin Laden posed, that they were declaring war on the United States, and he could not get anyone's attention, never, ever again should we be in a position where the Director of Central Intelligence, now the director of the national intelligence community, should not be able to get the attention of the executive branch or of the Congress or of policymakers across the board within the intelligence community because he doesn't have the power to redirect resources or to redirect the attention or to make sure there is a collective focus on such a major threat.

There are a number of authorities that this legislation before us will provide the national director of intelligence. I think it is absolutely vital and critical that the national intelligence director have strong authority to redirect resources with respect to budget and personnel. There is no question that we must have a director of national intelligence who is vested with the kind of power and authority to command a centralized organization. This is not just about moving boxes around. It is vesting the authority within this individual to command the direction of the resources and the decisionmaking that is absolutely vital to establish the kind of strategic thinking across the intelligence community that heretofore has not been present.

Some have argued that providing the national intelligence director with these authorities equates to the loss of intelligence support to our warfighters.

I do not dispute the fact that any successful intelligence reform must respect the military's necessity to maintain a robust organic tactical intelligence capability and to have rapid access to national intelligence assets and information.

I would argue that providing the national intelligence director with the authorities commensurate to his responsibilities, by providing him the ability to better coordinate and manage the entirety of our Nation's intelligence operations, could improve national support to our military operations, both strategically as well as tactically.

One of the national intelligence director's greatest responsibilities will be to secure national intelligence support to our warfighters and ensure that strategic information of tactical importance is expeditiously delivered to our soldiers, seamen, airmen and marines. There is no question but that the men and women of our Armed Forces deserve and must continue to receive the best, most timely actionable intelligence. So I believe that creating this position will also improve the accountability within the intelligence community, an issue that also has been a focus of mine for the past 20 years.

I saw firsthand the consequences of serious inadequacies in accountability during my 12 years as a member of the House Foreign Affairs International Operations Subcommittee and as chair of the International Operations Subcommittee of the Senate Foreign Relations Committee.

During the 99th Congress back in 1986, I worked to bring to the State Department an accountability review board as part of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986. I think about those times because accountability becomes a critical component as we ensure that our agencies are responsive to the threats that are posed to America, to Americans, to American interests here as well as abroad.

As a member of the Senate Intelligence Committee, I look back to that time. That is why I think it so critical to ensure that in every phase of the new challenges that we are facing we also incorporate the kind of accountability that compels our policymakers, our officials, and agencies responsive to those threats. As a member of the Senate Intelligence Committee, I continue to see that there is a stunning lack of accountability within the community.

The committee's review of the prewar intelligence on Iraq's weapons of mass destruction is replete with information-sharing failures, analytic failures, and collection failures. It is imperative that these failures, many of which were identified in the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, are not repeated. As former United Nations weapons inspector Dr. David Kay told the Intelligence Committee at one of our reform hearings, '' . . . intelligence reform without accountability will not achieve the objective we all share to avoid repeating the clearly avoidable tragedy of 9/11 and the equally avoidable failures in analysis that marked the Iraq WMD program.''

That is why back in 1986 we created an accountability review board in the State Department because of embassy security, because of the threat posed by terrorists back in the 1980s. We had the Inman Report in 1983, and we responded to that. We redesigned embassy security, both physical, perimeter security, intelligence security, and we didn't want any more lapses and failures in that regard. That is why we set up the accountability review board—so we can ensure that these measures put in place are implemented and strongly enforced.

I think the same is true here. We have to ensure there will be accountability. In the aftermath of the World Trade Center bombing in 1993, there was a failure of information sharing among the agencies. Again, it was another lapse in failure among agencies. Even after 9/11 we are now examining failures again of information sharing—replete with failure.

It seems to me that we have to redesign the system to ensure that we have the kind of accountability we should demand rightfully of those who are in positions of authority to implement these responsibilities and obligations. That is why I think it is critical that we incorporate these types of reforms which will be essential.

I concluded after my examination of what went wrong with our pre-war assessment concerning Iraq's WMD program and the reality posed to the military phase of Iraq that one way to prevent these lapses in the future is to inject more accountability into the intelligence community. That is why I introduced legislation in June to create the office of inspector general for intelligence.

The intelligence community lacks a single, overarching intelligence communitywide investigative entity that bridges the gap between and among all the various agencies in order to identify problem areas to ensure critical deficiencies are addressed before they become crises or tragedies, and to develop and ensure the implementation of the most efficient and effective methods of intelligence gathering and interpretation.

What is required, in my view, is an inspector general for the entire intelligence community. The agencies now have their own individual inspector generals. But I happen to believe that this newly created office would assist in instituting better management accountability and would help the national intelligence director resolve problems within the intelligence community.

I am very pleased that the legislation we are debating today includes—again I thank the leadership of the chair of the committee, Senator COLLINS, for including a provision to create an office of inspector general for the entire community. That inspector general has the ability to initiate and conduct independent investigations, including investigating current issues within the intelligence community, not just conduct ''lessons learned'' studies, not just a retrospective, but prospective to identify the problems that may be there, may be present in the intelligence community, and to have that strategic view of what is going wrong and make sure we can also prevent and preempt the problems before they take place.

This new office will seek to identify problem areas and identify the most efficient and effective business practices required to ensure that critical deficiencies can be addressed before it is too late, before we have another intelligence failure, and before lives are lost.

In short, an inspector general who can look across the entire community will help improve management and coordination, and cooperation and information sharing among the intelligence agencies—again, another dynamic that will help to ensure and enforce the kind of information sharing that clearly has been lacking up to this point.

The inspector general also will help break down the barriers that have perpetuated the parochial, stovepipe approaches to intelligence community management and operations.

Again, I commend the work of the authors of this underlying bill, Senator COLLINS for her dedication, and Senator LIEBERMAN for working together to include this recommendation of creating the inspector general in the office of the national intelligence director.

The authors of this bill have crafted extensive language creating and defining this vital agent of accountability. I look forward to further working with them to complete the creation of an independent IG, and to ensure that proper accountability to the director of the national intelligence, to the President and to Congress, and ultimately to the American people is carried forward.

In addition, I hope I can work with the committee on several other issues and amendments to enhance this legislation.

For example, as I have been reviewing this legislation, and as we look at the pre-war intelligence, it was apparent that the intelligence community relied on forces that supported this predetermined idea and found there was no alternative analysis or ''red teaming'' performed on critical issues, allowing assessments to go unchallenged year after year, and certainly for more than a decade with respect to Iraq.

While this bill includes provisions for an analysis review unit, I also think we must consider the ability for the community to look at alternatives in that

area as well. It is very important to have that type of dynamic within the intelligence community, to think out of the box, to think creatively and innovatively and not just be confined to the assumptions that have been carried over, to preconceived notions that were so inherent in all of the pre-war assessments with respect to Iraq's WMD program.

This bill also mandates that the national intelligence council produce national intelligence estimates. I believe this process must be made a little more automatic and transparent and a little ad hoc. I believe that the national intelligence council should report to us what they can do to streamline that process.

I also believe we should have the National Counterterrorism Center report to us in a year about what they are doing and whether they are meeting the mark. This bill already requires a report from the national director of intelligence. But I think it would also be important to hear from the Director of the National Counterterrorism Center the lessons learned in the establishment of capability before we move to set up other centers. The creation of a national intelligence director and improving the community's accountability through the creation of an inspector general are but two of the many issues in the ongoing debate on intelligence community reform. Indeed, it has been an extremely challenging year for the intelligence community and those who work in it, one in which we saw every aspect of the intelligence process come to the fore at one time or another.

From the tactical collection and analysis of on-the-ground intelligence by our battlefield commanders in Iraq that led to the capture of Saddam Hussein, to the global search for the information that led to the exposure of Aq Khan's nuclear proliferation network, to the decision to commit troops to the field in Iraq, it became obvious to every American that timely and quality intelligence is imperative if we are to be successful in defeating the forces that have pledged themselves to the destruction of America.

I think all of these events highlight how abundantly crucial it is to ensure that we have the leadership with the requisite authority to ensure that the collection, analysis, and dissemination of intelligence information is as synchronized, accurate, and as comprehensive as it possibly can be, and that it represents the very best judgment of the intelligence community when it is provided to the national policymakers who rely on that information to make the most profound of decisions.

Of course, intelligence reform must include reforming oversight of not only the intelligence community. Ideally, this should have occurred in tandem. Congress must not abrogate its responsibility to seriously tackle the oversight issue. As 9/11 Commissioner Lehman said, it is like one hand clapping, if you only do the executive branch this year. Hopefully we will be able to pursue those initiatives shortly as well.

In the final analysis, it is apparent to me that the intelligence structure put in place over 50 years ago was one that focused primarily on developing intelligence to counter a military threat that is no longer sufficient for confronting the asymmetrical threats we are now confronting in the 21st century—a century in which our enemies no longer make distinctions between our battlefields and our backyards.

So, therefore, we must develop a lighter and more agile intelligence capability that can keep pace with the kind of enemy we are now fighting—one that is elusive, one that does not need a large land-based military capability to bring the fight to us.

This legislation will bring America the agility we require, the ability to reform our intelligence apparatus into an adaptable organization prepared to anticipate and prepare for future threats.

I look forward to working with my colleague again, the Senator from Maine, who I congratulate again for bringing this most timely, this most forthright, comprehensive, very sound framework for intelligence reform and working with them on the issues I might propose with my refinements and enhancements to the underlying bill.

I hope in due course of this week or the following week, however long it takes before we adjourn, to complete this process, to pass this legislation, not only in the Senate but the overall Congress, so the President can sign this legislation because clearly it must be done forthwith. This is something the American people and the future of this Nation deserve.

I yield the floor.

Ms. COLLINS. Mr. President, I congratulate the senior Senator from Maine for her comments and her work on this issue. As a member of the Intelligence Committee she has understood very early the need for significant intelligence reform. The provisions included in the Collins-Lieberman bill that created an inspector general for the new national intelligence authority are the direct result of the legislation sponsored by the senior Senator from Maine.

I thank the Senator for her expertise and her leadership. This is an area, as she indicated, on which she has been working for many years. We very much value her contributions to the debate.

I know of no other requests to speak tonight.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in adjournment until 9:45 a.m., Tuesday, September 28, 2004.

Thereupon, the Senate, at 6:32 p.m., adjourned until Tuesday, September 28, 2004, at 9:45 a.m.